VICTORIOUS INDIA

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AND

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FOREWORD.

Dr. S. V. Ketkar, the author of this book, passed away on April 10th 1937. The manuscript of the book was completely written, and was just about to be sent to press; but it has fallen to our lot to complete the task.

The suit against the Congress is reported as far as it had gone.

The Self-Determination League, which now finds itself with only one member instead of two, and that not the chief one, is at present unable to function.

The author, as he himself states, had to work against tremendous odds. People are, by nature, conservative and slow to pick up new ideas. Pioneers, toiling without rest, are but too often rewarded only by jeers from their contemporaries, but, with courage born of knowledge, they labour on and continue undauntedly to give the results of those labours to the world.

History shows us, however, that gradually the unbelieving public does have to relax its attitude of hostile incredulity and ridicule. It cannot, after all, resist the force of facts. Even those with fixed opinions formed by the habits of practically a life-time are bound to yield ultimately to the power of truth, though they may not be ready to admit it. But the greater responsibility undoubtedly falls on the shoulders of the younger generation, for on the young men and women of the India of to-day lies the burden of the India of

to-morrow. From these younger people, especially the thinking ones among them, one hopes for an attitude of greater sympathy. Facts cannot be gainsaid. When once these facts are investigated and accepted the realisation of their truth cannot fail to bring with it the fearlessness, the hopefulness, and the inspiration to honest high endeavour, which will enable India to reap and enjoy the longed-for and long-awaited harvest of her victory. It is sad to see blind starving people staggering faintly under trees laden with ripe fruit, unconscious of the fact that they have but to reach up and pluck. This, to a great extent, seems to be the condition of India at present. May those who read this book take heart, and join hands in labour, so that this shall not be the condition in the future.

S. K.
" Ashasthan,"
POONA 4.

PREFACE

This work is being issued with the conviction that it will achieve its object. It will give the people of India confidence in their ancestral political and social philosophy, belief in which has been disturbed by some incorrect Western teaching. It may accomplish even more. It may make Western readers think on their own political development more objectively and realize the exact place of that development in the world evolution. If it succeeds in doing that it may affect Western political thought, and the great gap between the Western and Eastern development of thought may be filled and the period of world unity be brought nearer.

A considerable variety of topics will be found created in this book. First of all the Government of India Act of 1935 is explained, as it is not understood that this Act gives India absolute independence, or rather recognizes its independence, inasmuch as it completely removes the power of Parliament over the governance of India. It thus gives the people of India the full opportunity to determine their future; it is, in fact, a self-determination charter. This fact is understood neither by any politicians nor by important men in Government service. Politicians failed to understand, because they never grasped the importance, or the practicability, of removing the British Parliament's power, and so they neither understood nor appreciated the occurrence of that removal. Not the number of

ministers, nor the reserved powers of the Governor, but the removal of Parliament's unseen influence, is the thing that mattered. That influence being removed, India to-day stands as a free country, able to control her own finance, army, navy and air force.

Discussion is thus concentrated on the Act itself and also on its exact legal limitations. After explaining the Act, the cause of the change is explained: Why it is that the power became transferred to India from Whitehall. The readers should realize that Parliament's power was not removed without effort, although the effort remained unnoticed during the noise of the Congress activities. That effort, carried on exclusively by the author, has to be explained along with the reasons of its success. The story of the struggle against unreason is, therefore, given further in detail.

Along with the history of this effort political events since the death of Mr. Tilak, the different political activities in the country, the entire history of the Congress propaganda and its virtues as well as flaws, and its possible contribution in removing the power of Parliament, will also be found described and explained.

S. V. KETKAR.

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VICTORIOUS INDIA

CHAPTER I.

AUTHOR'S DECLARATION.

1. India to-day is a free and independent Empire

Very few people in India are willing to believe that the country, since the latter part of the year 1935, has actually commenced a new era, that its independence has become practically acknowledged and is on the way to being realized. The people who can see India as a likely important world-power are still fewer. Politicians in Britain may have been conscious of the change, but they may not be optimistic about the future prospects. Great nations in the world have been habituated to regard India as a conquered country and Indians, therefore, as a people more or less inferior to themselves in the world's commonwealth. Those nations who consider themselves, and are regarded as, equals of Great Britain naturally regard the people of India as subjected people. It is, therefore, necessary to explain to the world at large that a real change has come about. This is being explained by one who claims to have materially contributed to that change. India stands to-day as a perfectly free country and is on her way to asserting an equal, if not dominant, position in the political and economic life of the Indo-British Empire. India's independent existence, which was temporarily obscured by wrong understandings of law, has been regained; but it is not known that independence is regained.

2. The hidden battle for freedom, and the magnitude of the achievement.

The further pages will explain the secret advent of the change and the strange warfare that remained practically outside the public gaze, which was concentrated on the showy propaganda of the Indian National Congress and the constitutional manœuvres of clever, but ignorant, British politicians. After explaining how, and why, the battle for freedom is won, it will be pointed out that the road for the further development of India is clear, and that nothing will stand in the way of India's betterment except India's own will and perverse stupidity. Inasmuch as India's freeedom is won, and India has the completest power to shape her destiny, and inasmuch as reason and honesty have at last prevailed in the political life of the united Empire (British and Indian), the further course of action for India is to swear permanent unity with the British Empire, and to frame a policy of mutual advantage first, and of world unity and of simplification of the world's economic life afterwards. The circumstances under which the writer is writing this book are of a singular character. No political worker is likely to have any chance of claiming the particular credit which the author of this booklet is compelled to claim. The writer has to inform the public that he, single-handed, has won a great war. Neglected by the contemporary world, working without help or opposition, and getting perhaps only a cynical smile from those who happened to know what he was doing, the writer has accomplished a huge task, and when

he accomplished it nobody became wise about it. His effort became successful in relieving one-fifth of the human race from bondage, and yet, while that race is actully freed, very few people understand that the freedom has come. The magnitude of the author's actual achievement may, or may not, be appreciated by contemporaries, but surely a thinker of future times will have to give him the credit which belongs to him.

India is one of the most successful countries in the world in achieving unity of a large area by exercise of political principles of its own, but, while achieving the unity, she temporarily became a dependency. During the temporary period of dependency India herself acquired a wrong political philosophy which the oppressors imposed upon her. Wrong political status and wrong political philosophy went together and were to be cured together. When India's dependent character was to be removed (and the author *has* materially removed it) the wrong philosophy also needs to be removed. It is necessary for the completion of Victory. The author commenced warfare against the offending British Government in 1932 and has succeeded almost completely to-day. He has not only freed the country from misrule, by the application of true constitutional methods, but has also laid down the proper law for the governance of a large empire.

3. Wrong ideas on India's constitutional position in the United Indo-British Empire.

While explaining the battle for freedom it will be shown that wrong understanding of the actual legal relations between England and India was the chief

obstacle in India's assertion of freedom Indian intellect was enslaved by British teachings The teachings of the latter were based on insufficient knowledge and obscure intentions India, from the very beginning, has been a separate sovereignty, and she united with Britain as a separate sovereignty

4 Wrong interpretation given by British teachings accepted by Indians

British politicians, having had the management of India's affairs, set up, consciously or unconsciously, wrong theories and it was those wrong theories that created false expectations among British people and gave a wrong lead to Indian politics India's leaders becoming disciples of the British masters Both countries became duped by wrong theories India became at once, in the eyes of British politicians, a conquered country to which, if any concession is given, it is a matter of British pleasure exclusively Indian leaders, therefore, felt all along that they were nothing but mendicants at British doors, who have to win over any right by working upon British feelings, at the same time demonstrating to the British the capacity of Indians for carrying out what the British Parliament may entrust to them This kind of idea created in the British mind an attitude that Britain has complete dominion over Indians,—they must not be over generous and must not cut their own throats while conceding to Indian demands

5 Wrong constitutional ideas created wrong attitude in political life

Indians, who felt themselves as mendicants, had to resort to flattery, and to attempt to approximate them-

selves to British ideas regarding propriety, civilization and Christianity. Monkey tricks of various characters also resulted therefrom, which found culmination in the character of Mr. Mohandas Gandhi. The highest ideals of India became subjects of wrong interpretation and contempt, and our 'leaders', in treating them so, fancied that by doing so they will be demonstrating themselves and India as more fit for self-governance to the satisfaction of our masters. This being the under-current of belief, the country acquired a wrong social psychology, which is bound to disappear in due course henceforward.

6. The different attitude of the present writer.

The present writer, however, commenced his work entirely on a different principle after understanding the historical aspect of British-Indian unity. Enquiring into the past he finds that Britain's authority over India has neither logical nor legal reason. Nay, it is contrary to both. Having realized that, he felt his own power and sought to remove that illogical and illegal authority, having recourse to law. The British Parliament's authority over India was not challenged by any Indian but himself, other politicians being disciples of British teachings regarding the British Parliament's sovereignty over India.

The chief difference between the author's method in politics and that of the orthodox politicians in the field is not so much regarding the remedy, but in diagnosis and approach. The orthodox politicians followed the lead of British politicians, who were un-

acquainted with the peculiarities of Indian history and regarded the Indian problem as similar to the problem of the colonies, which were set up by British adventurers and asking for more developed polity for their communal life. The problem of India was of an entirely different character. The difference was not clearly grasped by liberal politicians in England, whose lead Indian politicians followed, and then politicians prompted in India what they learned from British masters was necessary for a popular government.

7. *India's problem was different from that of* the Colonies, and so difference in their objective was necessary.

The problem before the Colonies was to clothe their body-politics with larger powers, whereas the body-politic in India had complete Empire-powers to start with, and therefore, whereas the goal of the Colonies was Dominion status, India could not hold up Dominion status as her objective.

Thus to remove the power of the British Parliament over India became the chief objective of the author, and he is satisfied that he has achieved complete success in his efforts in that direction. Demonstration in detail of India's complete independence will be found in the subsequent chapters. Suffice it to say at the outset, that the fact of legal independence is not expressed in the Parliamentary statute in a manner easy to understand. British politicians were interested in maintaining a language which laymen may not easily understand. In legal expression they could not restrict the independence of India, but at the same

time they seem to be interested in concealing from the Indian public the independence of India, which they have been forced to acknowledge. The language of statutory expression is necessarily kept complicated, because there was no provision in the Act of Parliament by which the governance of India was made dependent on the will of England. Only a practice was set up by which all the power of India was concentrated in the Secretary of State, and that Secretary of State was made completely subject to the will of British interests represented in Parliament, not openly, but furtively. As the British Parliament had not claimed sovereignty over India an expression relinquishing that sovereignty will not be found in the statute. The statute simply says that all power of the Secretary of State reverts to His Majesty; the Governor-General and the Governors have His Majesty's power, and the Secretary of State has general superintendence only. Thus the Secretary of State for India is relieved of all the power which the British Parliament was using i.e. misusing, and thus the dependence which existed in practice, but not in law, is removed.

The removal of the British Parliament's power over India's governance constitutes India's re-assertion of independence. India stands forth to-day able to determine her own destiny and her own civilization-character.

8. Complete success of the author according to anticipation shows accuracy of the method.

The author tried to remove the British Parliament's power by legal proceedings. The legal proceed-

ings were not carried to their logical end as planned, as success was achieved before the legal proceedings were pursued to the end. The British Government, by granting substantially the contention of the author in the Act of 1935, made the further proceedings almost unnecessary. This success in removing the British Parliament's power without being compelled to pursue the legal proceedings to the end was foreshadowed in the author's statement attached to the report of the legal proceedings. The forecast made on the 26th May 1933 is quoted .

"When the cause is located the removal of that cause will not be a difficult process. Knowledge of the fact that there is nothing in law that is causing us dependence, or marring our welfare, except the underhand dealings of some British politicians which are productive of the wrong, will produce that strength in the country which no power will be able to resist. By commencing these proceedings, I have started the ball rolling and I am waiting to see how early it will break down the wall of unreason and defeat the efforts of the politicians in England to take advantage of the situation.

Legal proceedings will take some years for their termination in due course as legal proceedings generally do. But I can foresee that the object may be achieved even before the proceedings come to their normal termination, even though the notice to Parliament members should not achieve the result immediately. The result may be accomplished much sooner

for various reasons. The condition may become intolerable for the official class, which has kept generally free from the fight for its own liberty, but now the object will be accomplished by the people and the Government of India joining hands together. There will be an incentive to make a common cause. When the Government servants and the people in India realize that orders conveyed by the Secretary of State in the name of His Majesty are really orders of some hungry groups which boss the Secretary of State, and not of His Majesty, neither the Government of India nor the Provincial Governments will be able to stand before the representatives of the people unabashed. The Government officers, from the Secretary of State onwards, will be looked upon somewhat like hired pugilists, appearing mighty, but really cowards, merely carrying out the wishes of British interests which want to make money out of India. The writer feels positive that under these conditions no self-respecting members of Government will be pleased with their position.

When the situation will be too intolerable for the Government officers themselves, they also will be required to join the people in demanding suspension of the influence of the British Parliament. The Secretary of State will then have to face his ordeal. I expect that the Governors, Ministers, Executive Councillors and the Viceroy will commence to assert themselves in their own way. Suspicion between Government service and people will vanish as both will realize that the ultimate cause of disagreement between them is politicians thousands of miles away."

9. Complete immediate success predicted.

A conviction that in the Act itself complete provision will be made to meet the situation was expressed as follows :

"Speculation about all these possibilities becomes necessary only when we assume that the Parliament of Britain is composed of men who are either unscrupulous or lazy, or at least indifferent about their good name, or who are anxious to have the excitement of legal proceedings against their body and also a certificate of the court about the wrongs for which they are responsible. But we need not at all make such an assumption. I have every hope that neither bitter fighting in the law courts, nor the attitude of combined resistance of government and people of India against the British Parliament, will be necessary. In short, Swaraj within a year will not be a dream, but is a very likely eventuality."

10. Success of the author's process is a triumph of Constitutionalism, the true creed of India.

The British Parliament's power over India has been removed completely. India has reached this success by the simple application of constitutional remedy. It will be shown further that Indo-British unity on equal footing is nothing but a further development of political principles laid down in Indian history, but unknown to politicians in Britain. We have to say that *India has been victorious in carrying out her principles*, and stands forth in the world as the most successful contributor to political science yet to be understood by the Western world.

CHAPTER II.

SOVEREIGNTY AND INDEPENDENCE OF INDIA.

1. Constitutions and their historical developments

The words 'constitution' or 'constitutional law' are used in two different senses in the English language English writers are in the habit of using these words in the sense of the law of Government. American writers use the words in the sense of that portion of law to which all other law is subordinate. In England the meaning given to the words is natural because Great Britain is a unitary state. It has not yet developed federal law, and the English jurists and political thinkers have not bothered to distinguish between ordinary law and highest law.

As ordinary law develops by disputes decided in the courts, so federal law also develops after disputes arise between constituents and effort is made by federal judges to solve the disputes. These disputes and their solution make federal law and also evolve constitutional law. Constitutional law for the Indo-British Empire is yet to be evolved. The dispute to which the writer has been a party will materially assist in the formation of the federal law of the British Empire.

It is history that determines the constitutional law. Historical antecedents of united empire will be found to be the greatest determinative of the law of the

empire. Here there are two sovereignties united, and their mutual relations are seeking for adjustment.

2. Sovereignty of India is the first point to be considered.

For the complete advancement of a people they must have a political existence of a sovereign character. People rushing into political schemes to free the country or people should first consider the question of the sovereign powers of their political body, but this question is not attended to. In India the word popularly used is *Swaraj*. This word was not originally used in the sense of popular government, but was used to denote a unitary state governed by a tribal or national ruler, independent of the neighbouring empire. It is in the present century that a new meaning began to be put into the old word. The word 'swaraj' began to be regarded as equivalent to Home Rule of a territory within a large empire. It also began to be used in the sense of popular government. Home Rule means a local autonomy from a large body by a fraction thereof, but an empire which is really an independent one can hardly appeal to an outside force for a constitution to itself; but this thing has happened. India is seeking for itself a constitution from the British Parliament because India did not understand her own sovereignty.

There is no question so little understood as India's sovereignty. On account of public ignorance of this cardinal fact of India's political life the political effort of the country is entirely misguided. Proper thinking on political questions can commence only after proper

appreciation of the radical facts regarding the law of the country's sovereignty. One ruler goes, another comes; one dynasty passes, another comes; but the sovereignty of a country does not depart. A sovereignty may extend or may limit its territory, still the sovereignty is there.

3. Does union with England destroy India's sovereignty?

When two sovereignties combine each sovereignty is governed by its law, and the combined government of the two sovereignties has to respect the law of each. Hanover became combined with England, the Elector of Hanover accepting the throne of England. But as Hanover had the Salic Law which prevented the succession of a female, Queen Victoria had to give up the throne of Hanover and another member of the family inherited it. Thus, when two sovereignties merge together by processes other than conquest, each territory maintains its own law and its sovereignty. India is not a country conquered by England. She, therefore, must enjoy, as a matter of legal right, independence and such functions as are consistent with her sovereignty.

4. Sovereignty should not be confused with popular government.

This confusion has arisen simply because the word 'Swaraj' is used in the above two senses. In our political action the sovereignty of India is first to be guarded. Sovereignty and independence should not be confused with self-government or popular government. Nepal, for instance, has no popular government

and yet it is a sovereignty and an independent state. The same was the case with the Empire of the Great Mogul or the Maratha Empire. They were both independent empires and yet they had no popular government. Although there is a change of dynasty and a monarchical government a state does not lose its independence or sovereignty, and under these circumstances it is necessary for us to enquire as to why India became a dependency of England.

The only explanation is that independent states become dependencies by ministerial frauds. In India we have the case of Udepur State. When Lakha Rana of Udepur died his minor son sat on the throne and his grandfather, who was the King of Marwar, came to Udepur and began to act as Regent for his minor grandson. The whole state of Udepur thus became a dependency of Marwar, not dependency in law, but dependency in fact. In England, when the English King was accepting moneys from the French King, and was running the state subservient to the will of the French King, England had become a dependency.

5. We are concerned with law and not with a temporary political fact.

say that Britain has a right to rule India. All that happened is that a British company which came to India obtained Diwan's or Manager's powers for Bengal, Bihar and Orissa from the Great Mogul. When this company was acting as servant the sovereignty was that of the Delhi Emperor. They obtained the Peshwaship afterwards from the Maharaja of Satara. So, by uniting the two, viz. Peshwaship and Diwanship, the East India Company became the Diwan of the whole of India.

The East India Company was continuing its Diwanship all along till 1857. When the crisis came the Emperor of Delhi dismissed from service the East India Company and appointed Nana Saheb as the Peshwa. The dismissed Diwans, viz. the East India Company, however, succeeded in the warfare that ensued. The Diwan succeeded, the Emperor and his Peshwa were defeated. The dismissed Diwan, after he succeeded, placed on the throne another dynasty, viz. the present dynasty of Windsor. The Diwans had kept the Satara throne vacant since 1857 and displaced the Emperor of Delhi in 1858. The two sovereignties combined in the new ruler which India got, viz. Queen Victoria.

Legally first the Diwanship of India went to a British company, and through that company to the British King. The thrones also went to the British Crown keeping their independence intact. Thus the Queen became a legal possessor of the thrones of Satara and Delhi. But these two sovereignties continue as sovereignties, and whatever different political

arrangement that may come contrary to these historical antecedents cannot be deemed as law The Sovereignty of India was not denied by the British Government Her right of making war or peace was specifically mentioned in the Act of 1919 This right of making war or peace was never given to the Dominions

So, as far as sharing the characteristics of a sovereign state is concerned, India has always been superior to the colonies of Canada, Australia and others The latter are portions of the British Sovereignty outstretched and therefore share only partial sovereignty But India is an entirely independent sovereignty, having her highest officer the same who holds the kingship of Great Britain

So there are two sovereignties united with a common executive but having different constitutional law Constitutional law of Britain is decided by historical antecedents of Britain, and constitutional law of India is determined by political antecedents of present India They are two different polities with one common executive viz the King of England and Emperor of India The subordinate executives of Britain, however, as they enjoy juxtaposition with the chief executive, appoint men from their clique to the second highest executive office of the Indian Empire, the Secretary of State for India, and in that appointment the dependence of India began

So the greatest empire in the world became the sport of self seeking men in Britain, who used the machinery of the Government of India to fill their own pockets and to the detriment of the Indian people, and

thus Indian political life was led into a condition of abject despondency.

Political-minded people thought that, if they obtain the right of popular government, their condition would be improved and they would be able to determine their own destinies, and would be able to use the machinery of the Government for their own betterment. But they forgot to correct the abuse at the top. As long as the Secretary of State had all the powers of the government, and as long as he was, and is, merely a tool of non-Indian interest, it is vain to expect that he will permit a betterment of their own conditions by Indians contrary to the plans which may have been dictated to him by his masters viz. self-seeking men in the British Parliament. As politicians forgot that in such political matters initiative did not rest in India, but remained in England, their movements, such as civil disobedience, became something like a fight with the policeman on the street-corner, instead of questioning the right of a particular order to the head—the police commissioner. The Civil Disobedience movement therefore failed.

6. Our independence is enforceable, because whatever is legal is enforceable through legal proceedings.

It was necessary to remedy the abuse of power by the Secretary of State for India. So far as the present writer knows, the only person who understood the complete dependence of the Secretary of State and tried to remedy the wrong to the country from that dependence; is himself. He attempted to free the

Secretary of State from the Parliament s control by legal proceedings against him The courts in India could not give him the required relief by giving a declaration sought for, viz that the Secretary of State is not entitled to represent British interest in the British Parliament and that he could not take money from the British State, etc Although the legal proceedings failed in India they are not terminated The freedom of the Secretary of State from the Parliament can be achieved through legal proceedings in Britain where the trial of this case cannot be avoided

7 Achievement of the victory before the proceedings took their ultimate course, by transfer of power to India.

The proceedings, however have achieved their purpose almost completely The mischief which the Secretary of State was capable of doing, and used to do will no longer be possible His peculiar position, which was the root cause of the inability of working the Act of 1919, seems to be appreciated by His Majesty's Government They avoided the further progress of the proceedings, fully knowing that the matters will only come into the courts and the Secretary of State will be caught red-handed in intrigue with representatives of another state to the detriment of his charge, and thus the whole Government will have to face the accusation of a criminal conspiracy

revision is to be effective primarily in those spheres which are left to the discretion of the Governors and the Governor-General.

Thus the Secretary's powers are likely to be utilized only to minimize the mischief which local authority may do, and thus, inasmuch as there is an officer above the Governor, the dissatisfied ministers have another remedy against the Governor besides resignation. Therefore we can say that provincial autonomy is really complete, and autonomy of the Indian Empire is also in process of speedy realization.

Whether the impartial Emperor acts or not, or whether the Secretary of State for India, while acting for the Emperor, mingles his own personal interests, is a matter that chiefly depends on our own vigilance in this direction.

8. Possible reasons for victory : fear of international complication.

What is it that led to the removal of Parliament's power over India ? Indian politicians of note are unwilling to believe that the writer's legal proceedings have anything to do with it. They ascribe the result to some unknown causes, but are quite positive that these legal proceedings cannot be the cause, whereas the writer is inclined to ascribe it to that and that alone. The writer knows the power of law both in peace and in war. A cause which is known to be just and legal gets more support. Maratha Sirdars, who wanted to start creating a state for themselves in own way, were always careful to obtain a Sanad the head of the state to conquer and hold a

for the Satara throne. Without that charter they would have been commonplace freebooters; but with a charter in hand they at once became agents of Hindu power arriving on the spot to grant people freedom from the Mahommedan yoke. Thus, if India's sovereignty is known to be distinct and independent, the forces to contend with dwindle much in importance. The courts have simply to adjust historically correct relations, but if something new is to be asked it is a matter entirely of the pleasure of the giver. Moreover, in the field of international politics India at once gets a place if she is known to be an independent sovereignty. It becomes legal for a foreign power to espouse the cause of India against misbehaving Britain. If India is an independent sovereignty India has a right to deal directly with every country on the globe, and if Britain prevents that, Britain is offending not only against India but against every country on the globe. It is for this reason that the writer was able to say, in his notice to members of the British Parliament, as follows :

"The country, being a Sovereign power, is entitled to appeal to other nations when its Sovereignty becomes injured by members of an allied government usurping all authority, but only legal proceedings against the Secretary of State for India have been started. This step is taken with full confidence in His Majesty's Judiciary. I am also confident that the necessity of appealing to other nations will never arise, but it may be an advantage to some members of your body to visualize the ultimate possibilities."

The writer supposes that the British Parliament must have realized exactly what he meant in the above lines, and the logic of facts had its own effect.

9 Another cause of success : possible silent co-operation of Government of India.

Another reason to which the writer ascribes his success is that when the evil is spotted, and efforts commenced to remove it, people who may have felt the wrong, but were compelled to be mute for reasons of their own, became more powerful within their restricted orbit, but proved useful nevertheless. The government officers themselves must have assisted the process of the removal of Parliament's authority in their own way. In fact, the writer expected as much and has published his expectation :

"The quarrel, which very often appears as a quarrel between government and the people of India, if traced to its ultimate source, will be found to be a quarrel between these cliques in the Parliament of England and Indian patriots, and the helpless Government of India are required to side with the oppressors, who have obtained mastery over them. If that evil influence of cliques in Parliament had not existed there would have been no conflict between the government and the people of India.

As both India and England will devote thought to this problem realization of the aim of the suit is likely to be a rapid process. It may be so rapid that the plaintiff will not at all be surprised if the end is achieved within a year or so. With the knowledge of the fact that there is no legal obstacle in the way of

India's asserting her independence, progress towards possessing it is going to be rapid. The old proverbial expression: "I came, I saw, I conquered" will be justified, and our generation will be telling the next one that we understood that we are an independent community and that we asserted our independence immediately.

Being a sovereign country, India does not need any gift of Swaraj or Dominion Status from Britain. Whatever is given will not be worth possessing. India has its own basic constitutional law, under which Britain has acquired some power to make rules, only because the Empire of India permits her to do so. Britain's power to make rules is dependent only on basic Indian law, and that power also is extremely limited. We have within our own legal system and constitution the right of making new rules, a right which Britain does not possess. Rules framed in Britain will have to be thrown out by Indian Judges sooner or later, when they will be found to be made in excess of authority. Our own judges will ultimately interpret our constitutions and will pronounce opinion on the validity of rules made by British Parliament. Under such conditions the effort by the British Parliament to make any constitution is only misguided effort, or a luxury, or making a treaty with the wrong-doer. A country which is legally an independent one, as India is, becomes dependent when the chief executive of that country goes under illegal obligations of some other power and thus jeopardises her sovereignty and independence. Britain itself has passed through that experience when

it was under the Stuart kings who were receiving money from French monarchs At that time it was kings who made Britain a dependency of France In the case of India, instead of the Emperor, the executive, who is supposed to be responsible to the Emperor, is the chief sinner, and as all sinners are really victims, he is also a victim This executive need not be under the thumb of the British Parliament Remove that thumb and India is a free country

This dependence has persisted for over three quarters of a century and it is high time that we paid immediate attention to removing it The servants of the Government of India have not tried much, or at all, to remove that, because the Governors and Viceroys come for a short period, and when they come from England they come with a belief in the supremacy of the British Parliament and do not think of disputing it Their tenure of service is too transitory to get them interested to remove the evil influence over Government, they, therefore, take things as they are and do not take any initiative to change them The people in the Civil Service get into the habit of regarding with awe the authority of the Parliament, and are not sufficiently high placed to feel the necessity of challenging that authority Thus the illogical and illegal practices which cause the dependence of India are allowed to continue. The people of India, not understanding the difficulties which the Government officers have had to face, do not credit the officers with loyalty to India Thus the time when Government and people could have acted together in asserting the independence of

India did not arrive earlier, but with the institution of these proceedings I trust that it is on its way

No officer in India would have had the leisure or the reason to fight with the system as a whole Each officer performs the function assigned to him in the system and considers that his duty is done Politicians in India not seeing far enough, have become habituated to regard the local authorities as their tyrants, and the distantly-placed Parliament members as their friends The late Mr Tilak believed that the perpetrators of wrong were the bureaucracy and not politicians in the British Parliament Many of the politicians in India actually seeing a wrong here and there redressed by Parliament, had begun to regard the British Parliament members as their real friends To some extent the belief was natural People had not discovered that the real cause of the sorrows of India is neither the Civil Service nor the Indian Governors but the clandestine influence of representatives and agents of another community over the head office of their government, and that the officers of the local governments and Government of India were merely scape goats

10 Fear of judiciary of public exposure and also of His late Majesty

The fear of the hostility of foreign countries is a distant fear, and the pressure of the subordinate government, although of some potency, is not sufficient but the legal proceedings are potent for various reasons There is no certainty that the judges will shield the Government Moreover the trial will give oppor-

tunity to public examination of officers. These cause exposures, and awaken public wrath. People who really profit are always few, and the people who become jealous of the persons who gained through underhand dealing of politicians and government are always many, and these exposures always become useful to awaken the sense of justice of people who are not profited. Moreover, the power of the King is an important asset. If, by the misdemeanour of the ministers, the King gets the blame, it is the King who becomes unable to protect his subjects by the wrong practices of ministers. It was the writer's firm conviction that the King would look into the matter and would materially assist in righting the wrong. The writer will not at all be surprised if the whole Government of India Bill, prepared with great cleverness by ministers, may have been completely altered by just a few touches here and there by His late Majesty himself.

At the outset of the discussion inquiry is made into the origin of the practice : How is it that Britain ever got power to make laws for India? If the British Parliament acquired any power over India, what is the legal character of that power? This discussion should proceed before the Act of 1935 is explained, because the extent of the legal significance of that Act can be understood only if we understand the historical precedents.

CHAPTER III

LEGAL CHARACTER OF PARLIAMENT'S POWER OVER INDIA.

1 The British Parliament has no legal power over India

When we think about the binding character to us of the British Parliament's Government of India Act of 1935 we must examine its exact position in the hierarchy of rules within the legal system At present the Government of India allows that the British Parliament is a superior force and obeys it. But this position is no longer likely to continue, as the people and the Government officers do more thinking both on their own legal rights and of the legal power of the British Parliament Simply because Britain's Parliament exercises authority, and the Government of India obeys it, it does not mean that Parliament has really any legal power. To acknowledge the British Parliament's power because it is exercised, would be like admitting the claim of an intruder to property, because he really exercises authority over that property. Since the exercise of authority by Parliament is no test of its legality, more minute examination of legal principles becomes necessary. To examine the legality of Parliament's action we must see how any power has passed to them, whether it passed lawfully, or by usurpation on their part and by sufferance on the part of the people of India, or whether it was exercised by that body simply because nobody objected to their doing so.

2. The people of India are too distantly placed to watch the working of things which are promulgated in the name of their Emperor.

The people of India, being distantly placed from the sovereign, could not inquire as to who intervened between their Government and the ruler. They trusted, vainly we must say, that the government must be doing everything according to law and that Government would have had moral courage to take a stand against improper authority, and therefore had been heedless to inquire into the legality of any power that may be exercised over their governance. Indian sufferance is neither the test of the legality of the British Parliament's authority nor a commitment of India of her consent to the exercise of authority by the foreign Parliament. The Government of India did not protest because they lacked the required interest and courage, and thus Parliament's authority was neither examined nor challenged.

3. The Act of Parliament of 1935 is not legal, but useful.

The Act of Parliament of 1935 may not be legally binding on India; it has, however, immense usefulness. It does not bind India, but it binds Britain, and it is, therefore, useful as the undertaking of an intruder that he will discontinue his raids on the normal and honest exercise of Regal or Diwan's authority—an undertaking witnessed by His Majesty as their king.

When the East India Company acquired the [illegible] in India it acquired the power of a Diwan only.

power was granted to the Company and not to Britain. When the king of Britain exercised the power, and when, with him, the British Parliament co-operated in the framing of the Act of 1919, he exercised not the powers of the Emperor of India, but only a fraction of the power of a Diwan; and the British Parliament sought to systematize only the Diwan powers of the company. When the King of Britain was governing in this manner he was acting as a Diwan only. The Emperor of India cannot govern India according to the petition of the representatives of another people. When His Majesty acts on the advice of the British Parliament, or signs the draft prepared by them, he acts only as the King of Britain and not as the Emperor of India. When His Majesty signs the Act of Parliament with the consent of the Lords Spiritual and Temporal he only continues to act as in the days of the East India Company of whom he was the final controller.

4. The Diwan character of His Majesty and its legal effect.

If the Government of India Act is an Act of Parliament or a conversation between the King of England and the British Houses of Parliament it is not only void, but may become criminal also It means that the King of England is making conspiracy with the Lords and Commons of England regarding how India is to be managed. The status of the King of England in the Indian Empire is merely that of Diwan, as he is nothing but a survivor of the East India Company, of whose governance he was the final executive. Thus, when an Indian subject of His Majesty the Emperor of India

speaks against the King of England he is speaking against the Diwan only, and not against a sovereign. Every effort to separate the King of England from his Lords and Commons when he acts for India is contributory to his recognition as the Emperor of India, and is, therefore, highly loyal, as it will increase His Majesty's status in India. Thus an order of His Majesty, when it is issued with the consent of the British Lords and Commons on their authority, is no law for India. It is merely a declaration of Britain. In order to give to that declaration a legal character it must be assented to by Indian legislation, otherwise it is merely a wish of Britain forced on India. The British ministers realized that, and had tried to get the scheme approved of by the Indian Assembly, but have failed. The Government of India Acts of the British Parliament not being law, the legal flaw will have to be mended some time or other, and therefore the future Indian legislation may take up the Government of India Act as a provisional order of a Diwan and amend it in the Indian Legislature, and again submit it to His Majesty for personal signature. Indian ministers must not rest content with vicarious approval or disapproval of the Governor-General when he shows unwillingness to amend or modify or supplant an application of the Act of Parliament.

5. Freeing His Majesty from Diwan's limitations.

We have, therefore, to deny positively the authority of Parliament primarily if we mean to add legality to the Government of India Act of 1935. While denying

the authority of the Parliament we shall be setting the Emperor of India free from the unhealthy control of British politicians. While exercising this civil duty of ours we should not be unmindful of the British interests also. We should make it clear to them that we mean to cut away the strings round the Emperor of India; it is not because we wish that Britain should be enslaved, and we assure Britain that we do not intend to encourage His Majesty to make his government irresponsible to the people of Britain. It should be remembered that the British Parliament has been jealous and afraid that their Sovereign, strengthened by an Indian army, may conduct the government of Britain, defying the wishes of British people, and it was with this excuse they made His Majesty's Secretary of State for India their tool and used him for highway robbery. Whereas we are freeing the Emperor of India from British encroachment we should assure the people of Britain, at the same time, that it can never be our intention to make the King of Britain a tyrant over them.

It will be clear that in sanctioning the Act of Parliament the King of Britain acts only as the controllor of the Diwanship of India, and not as the Emperor of India. The displacement of Diwan rules (Act of Parliament) by proper constitutional legislation should, therefore, be seriously considered. In continuing the antiquated relations of doubtful character His Majesty's ministers had motives of their own. The tendency of the Parliament had been that of a suspicion against Her Majesty in the days of Queen Victoria and that Parlia-

ment's agents, or ministers responsible to, that body, slyly encouraged the exercise only of Diwan powers and not the powers of a sovereign. That the Parliament was suspicious about likely misuse of the Queen's powers over India is clear from the ministerial utterances in Parliament in the year 1858, when the Queen assumed India's sovereignty. The Diwan's powers were the only ones that were exercised and some obstacles were kept to the Queen's final assumption of authority. In the Act of Parliament the unwilling attitude towards the assumption of authority by His Majesty has been visible until 1935. That unwillingness was expressed by words indicating that the territories *were vested in His Majesty for the time being only*. This kind of expression was continued even in the Act of Parliament in the year 1919, which is not completely effaced to-day. When His Majesty continued the arrangements of the East India Company his powers over India were greatly limited, but when he acts as sovereign his powers are those of complete sovereignty circumscribed only by commitments and precedents and law of Indian kingship.

6. The Emperor of India and the legislative bodies form complete sovereignty.

The Act of Parliament being intended only to regulate the powers obtained by the East India Company, as is clear from the first section of the Act of 1919, Acts of Parliament can never be the final law of India, and are therefore inferior in legal character to that law which His Majesty may proclaim as the Emperor of India, which he will necessarily do, in consultation

with the Indian people's representatives. So there is a necessity of Indian Legislature sending their constitutional rules to His Majesty directly. Any restrictions which may be found in an Act of Parliament to Indian Legislature making a rule contrary to the Act of the British Parliament, or against approaching His Majesty, have no legal value, since it is contrary to the law of India's sovereignty. The representative people of India, along with His Majesty, are completely at liberty to tear to shreds the silly restrictions which the Act of Parliament may have forged, as the Emperor means henceforward to act directly as the ruler of the Federation and the Provinces. Restrictions to the actions of Indian Legislatures may arise only when, not the Emperor, but his representative, may be acting and when there is room for presumption that the representative may not be completely representing the attitude of the Emperor.

Thus an Act of the British Parliament is completely binding on England, but not on India. India's people and India's Emperor are at complete liberty to make any laws for themselves as they please, and exercise any functions of sovereignty independent of the British Parliament. It is not suggested that the Empire of India is likely to come to arrangements with other countries contrary to the interest of other parts of the Emperor's Dominions. India's independence is to remain intact, and yet conflict will have to be avoided by joint actions of the two empires, Indian and British. Lines of joint action will have to be decided by collaboration and joint sittings and frequent intercourse

between the representatives of the two different sovereignties. It is unlikely that when Indian Ministers want to assert their country and empire the Government of His Britannic Majesty will be able, or even willing, to withstand that assertion.

7. Betrayal by British Ministers of the interests of the Emperor of India—a necessary consequence of responsibility of Parliament.

It should also be pointed out that, by keeping up the traditions which arose during the Diwanship of the East India Company, His Majesty's Government are sacrificing the interest of His Majesty. This is particularly true with the behaviour of the Government of India towards the so-called Indian States. Since His Majesty represents the sovereignty of Satara and Delhi, the holders of the territories which were the hereditary governorships of Satara and Delhi, such as the Nizam, the Scindia, the Holkar or the Gaekwar, should not be regarded as sovereignties, but merely as subjects in no way superior to other citizens of the Empire. The territories governed by these are not tributary states, but His Majesty's provinces pure and simple, whose subjects are entitled to justice from the Emperor of India, and whose hereditary governors must be subjects to law enforcible against public servants. The East India Company, which was only a Diwan of a Nizamat of Bengal, may presume to regard the holder of another Nizamat as an ally. Thus it may be legal to regard the King of England as successor to the power of the East India Company, as a personage of whom these hereditary governors are allies; but it is certainly a

betrayal of the interest of the Emperor of India to treat the Nizam or the Gaekwar as sovereignties or as allies of the Emperor of India.

8. Provision in the Act for Indians to assert themselves against Governors.

When the writer says that His Majesty and the people's representatives are a power which the British Parliament will not be able to resist it should not be considered that he is making merely a theoretical or an academic statement. It is of a real practical character, as there is a British commitment. The Act clearly states that the Federal Legislature consists of His Majesty and the two Chambers (Sec. 18). Not that His Majesty was not a person whom his Indian subjects or their representatives had at any time no right to approach, but now the British Parliament, finding that His Majesty's India Secretary becomes subject to conclaves in the British Parliament, has directly instructed the people of India that they should regard His Majesty as a person whom their representatives are directly entitled to approach, and that the Governor-General acts only in the absence of His Majesty, representing him to that extent to which one man can represent another, reserving the ultimate authority to himself (Sec. 32). The privilege of regarding His Majesty as a person whom the people's representatives have a right to approach to explain the usefulness of their legislative measure is not confined to the Federal sphere. Provincial legislature also has His Majesty as a constituent (Sec. 60).

9. Desirable attitude towards the British Parliament.

When it is clearly understood that Parliament cannot make any law restricting the privileges of India's sovereignty it is necessary for us to examine how far the Parliament of Britain has really erred in this matter, and whether it really has hindered our free and independent action. If it has it will be imperative to take immediate steps to defy Parliament's authority, but if it has not done so a defiant attitude by the Government of India need not become immediately imperative; but it is the duty of the Government of India to explain to the British Government the exact legal position, so that they may communicate it to the British Parliament and prepare their own constitutional rules of full legality. We shall examine in a later chapter what restrictions Parliament has put on the legislature, and how far these restrictions are really restrictions for the exercise of India's sovereignty. That enquiry is to be made primarily to determine the urgency of constitutional reform. Legal necessity of defying Parliament's authority will not exist when the people themselves understand the real legal position, because it is after all our own ministers that will have to enforce the law of governance. If Parliament keeps expression of authority in their statutes a simple denial by the chief minister of India will be enough. Expression in British statutes will be something like the title 'King of France' assumed by the British King and respected nowhere outside Britain. India, realizing her own sovereignty, can treat the absurd claim of Parliament more as a good joke than anything else.

10 Part of legislature likely to be displaced

If one goes through the Act it will be seen that there is very little obstacle kept by the British Parliament, and in some cases, where the British Parliament wishes that they should be given a chance to express themselves where they are concerned before His Majesty sanctions, it simply means that in such cases His Majesty will be required to have joint sittings of Indian and British ministers to come to an agreement Inasmuch as this Act binds Britain to a principle of reciprocity India will have to watch Britain's actions, and will be able to restrain Britain also similarly when Indian ministers will be properly responsible to the people, and when Indian representatives know how to maintain the public services responsible to themselves A considerable portion of the Act will have to be deleted with experience With this suffrage increased to this extent, whether it is desirable that provincial government should be made responsible to every man or woman is a matter much to be doubted On this matter we shall have to go with our own experience Suffice it to say that, knowing that the Parliamentary legislation has no legal value unless it is continued in India by our legislature, we should use it, keeping our liberty to displace it unimpaired

CHAPTER IV.

HISTORICAL PERSPECTIVE.

1. Social and political necessity of historical outlook.

At present many persons thinking on politics are trying to conduct an examination of our own history, and, among them, many writers are trying to judge whether our forefathers were wise or unwise in bringing about the civilization to which we have arrived, in the light of the present exigencies or political difficulties. When Congress spokesmen wished to convince Britishers that we are persons fit for the 'grant' of Swaraj, and the Britishers found some excuse why it should not be given, the Congressmen regarded the evil, true or imaginary, which the British politician referred to, as a great flaw in our civilization, and began to condemn our forefathers for the course of history. Generally the people who did, and do, so are entirely innocent of either history or political science. We need not worry much over what has been done by those who acted without proper diagnosis, but in order to guide our future action we must understand the actions of our predecessors, that is, of our highly civilized forefathers, in the proper light. Our civilization began to be questioned by our modern political thinkers because of the fact of our recent political dependence. As that dependence arose out of the Diwanship of the East India Company we should first of all try to ascertain whether the Diwanship given to the East India Company was a great blunder, or a matter of great treachery, on

rule came, but went away accomplishing the aim which India wanted to accomplish. Foreign rule has to give place to co-operation, which will no doubt be established in a couple of years as both Britain and India will understand the true principles of Indo-British relationship. Principles of democracy and empire are to be combined, and a new polity is to evolve. In India the two principles had combined before, and the democracies prospered under empires only as city and village corporations. The union of British Dominions with India on terms of equality will be beneficial to both: Permanent alliance with a country with a large number of colonies with high economic advancement on terms of perfect equality is a creation which Britain and India have created jointly, but sub-consciously. Britain had temporarily taken advantage of the situation, but the taking of unfair advantage also will no longer be possible. Thus the principles of Indian political science have triumphed completely. It is for the Western world to understand the triumph and to modify and enlarge their political science.

3. The traditional philosophy being allowed to work, only error brought about by unforeseen causes was to be corrected, and is corrected.

This Company began to assume the rights of the master, but the Company itself being only the Diwan, its Diwanship was discontinued by the united sovereignty of India, which was assumed by Queen Victoria of England and is now resting with His Majesty King George VI the Emperor of India. For nearly eighty-five years the East India Company ruled India as Diwans of

the sovereignties in India, but this Company's internal arrangement being subject to the will of the Government of England, the Diwan Company continued to take orders from the British State in their official duties also Thus the administration of the country became subject to the will of the government of Britain, and inasmuch as the government of Britain was governed by the various interests in the British state, not Indian sovereignty, but Diwanship of India, became a creature of British interests This error was to be corrected, and has become corrected India's political theory was not wrong, but unforeseen circumstances arise, and what was intended for good creates some unforeseen evil. Under these circumstances the work of true statesmanship lies in removing the causes which disturbed the normal working of the principle That is exactly what is now done, and the evil to India is now permanently remedied by constitutional means in the world's most law-abiding land

4 One sided character of British political philosophy

England has some political lessons to give England developed representative government In monarchical countries the ministers change Old ministers are to be slandered, the mind of the ruler is to be poisoned against existing ministers When the chief minister is very strong he is to be persuaded to believe that the appointment of some of the subordinate ministers is wrong This is the way displacement of the previous office holder is accomplished by seekers of power In democratic countries, in bringing about the change,

various interests in the state are accessories. Combination of business interests with the officialdom is an important factor in the formation of political parties in monarchical, also in democratic, countries. It is to the credit of the British state that they made this change of political parties more methodical, and made the political change approximate the temporary will of the people. One cannot say whether the idea of approximating the internal structure of the government to the fleeting fancies of the populace is definitely for the good of the state, but there is no doubt that by this advance in democracy the state is made to give more sympathetic response to the people.

5. Britain's Colonies: political science pertaining thereto

Britain has worked out another principle of governance. The development of colonies and colonial government has been a development to their credit. How the people who emigrate should be given a sort of government sanctioned and protected by the mother-country, how to advance the powers of that government so that that state also may come to the rescue of the mother-country in time of need, has been worked out by Britain, making occasional blunders nevertheless. The separation of America and the formation of the United States has been a result of a blunder of this character.

Thus the main contributions of the British state are two. This state laid down the method of connecting the seekers of power with representatives of the tax-payers. It also evolved the method of giving a

government to its own emigrated population. The British state, however, never learned that political science which India alone evolved. India's political science is likely to determine the political institutions of the world's state in future.

6. Development of common law in India by synthetic process.

India's chief contributions have been two-fold. India brought under one law political communities spread throughout India and Eastern Asia, thus forming one large legal system acceptable to a large number of states, independent of each other, but spread over an area of over four million square miles. India created a kind of common law acceptable to states extending over such a vast area, and the importance of that legal fabric was so great that dynastic change became a matter of rather negligible character.

7. Empire philosophy in India.

The second important idea is that of the desirability of Empires. That a large empire should exist, and that a world state is an ideal to strive for, is an idea nowhere in the world kept so pronouncedly in view. In Europe the idea that is being fostered is that the states should exist as they are, but that they should be all independent, and that no one state should be agressive over another. European peoples were afraid of Empires and Imperialism, whereas in India formation of a large empire was deemed to be a proper and a just aim, and not an improper ambition. *That one king should subdue another was some-*

thing rather expected and praised. Princes always ready for war were extolled. Universal conquest was an idea extolled, and conquest in four directions was regarded as a culmination of heroism. That place can remain on earth only under universal empire was an idea firmly rooted in people's minds. That a universal King is bound to respect all religions was an idea so completely believed in that it has become a part of the daily ritual of the Brahmins in Maharashtra.

8. Political background regarding transference of power.

In order to understand the propriety of granting Diwanships to a strong body likely to be a master, it should be known that the conceptions of Indian statesmanship approved of this from generation to generation and from century to century. To hand over government to the head of a competent and powerful state is a practice so ancient that its beginnings cannot be found. A ruler thought that his state is least likely to be disturbed by such arrangement, and very often even adopted a powerful rival who came offering his services as Diwan or Army Commander of the state. In recent times Hyder Ali had risen to supreme power in Mysore State only as a servant of the present ruling family, which he did not seek to displace. The Bhonsle of Nagpur called themselves Rajas of Berar, and at Nagpur they kept up the tradition of being delegates of the 'Gond Rajas'. When the 'Shungas' displaced the 'Mauryas' they pretended for a long time to continue as Commanders-in-Chief of the vacant throne. When the 'Kanvas' displaced the 'Shungas', they still

continued to reign in the name of 'Shungas', calling themselves 'Shunga Bhrityas' *i e.* servants of Shungas.

9. Formulation of method of achieving comparatively peaceful revolutions.

Revolutions were brought about in a more economical manner, causing less disturbance to public life and less ravages of war. Revolutions were regarded only as a matter of the governing class, in which the farmer and trader were not in the least interested. The farmer had to pay taxes to somebody, and he did not care to enquire into the surname of the dynasty which ruled. The trader was ready to supply goods to, and seek favour of, any royal family that might be on the spot. If he did not get patronage in a particular state he went to another. Wars for the sake of trade were unthinkable in the past, and they are still foreign to the Indian mind. If the traders from one part want to do business elsewhere, what has the political power got to do with it? Why not let the traders propitiate the rulers of the respective places where they want to trade? Thus the farmer and trader were to a great extent unconcerned with the fortunes of the ruling family. The ruling family sought to increase its power by suitable marriages, so that they might add to their territory by inheritance, by economy in their own expenditure, so that they might be able to send money to another state and secure for themselves the office of the Revenue Collector or Diwanship. Thus the people were willing to see whomsoever came, if the new party that came, came by lawful means, such as accepting office under existing law.

10 India's complete secularization of politics

People supported a ruler irrespective of caste, religion and creed Thus the people's nature has become non-communal People could be loyal to a king, whatever his caste or religion might be Hindus were loyal to Mahommedan kings, and Mahommedans were loyal to Hindu kings, and to serve the person whose salt one eats became the rule Thus, by minimizing the losses which one may have to undergo for securing power, by making capture of fractions of powers legitimate, and by making the government not the concern of the people, India has been driving to accomplish a universal sovereignty, fully trusting that whosoever becomes the sole sovereign will have to treat all people with justice, and all gods alike Is it not said that in the court of the Universal Emperor 'Marutta', son of King 'Avikshit,' all gods were constituents of the assembly ! This was the strong belief of the people who persistently strove to achieve a Universal Empire, and naturally, juvenile political thinkers of the West, not understanding their political philosophy, accused them of the lack of patriotism

The British people i e the East India Company, took their clue from the French, who had understood the Indian constitutionalism earlier than the British state and the British, when they understood, copied Dupleix and began to regard Indian constitutional ideas as something silly but worth exploiting, and it is in that strain that Macaulay has written his panegyric on Dupleix

The East India Company simply copied the principles of unity of India which the Peshwa Balaji

Bajirao laid down The Peshwa wanted to solve all problems of Indian unity with as little friction as possible The dispute between Satara and Kolhapur states he wanted to settle by making one ruler the adoptive son of another There is also a tradition that he wanted to bring the heir apparent of Udepur to Satara to be adopted by Shahu But that plan seems to have been frustrated Whereas Hindu kingdoms could be united by using the form of adoption, he wanted to unite the governments of Satara and Delhi by a common Peshwaship, and so Vishwasrao, his son and heir-apparent was declared Peshwa at Delhi in 1761 before the third battle of Paniput As Peshwa of Delhi he reckoned on the co-operation and following of the Mohammedan noblemen, such as Suraj uddaula, who was fighting against Ahmad Shah Abdali

Thus the principles of Indian unity were laid down by the Peshwas and copied afterwards by the East India Company When the Nabab of Bengal and the Emperor of Delhi appointed the East India Company as their Diwans, and when Pratap Singh of Satara appointed the same Company as their Peshwas, they were following the law and precedents of their own country, little suspecting that there will be harm arising out of it And certainly harm would not have arisen in the normal course of things

CHAPTER V.

SUCCESSFUL INDIA.

1. The country's sense of failure is due to incorrect observation both of the past and present times.

While discussing the political questions, and the fate of India, it is first of all necessary to enquire whether India is a country that has failed in the race for life, or whether it is a successful country with a successful accomplishment. It is true that since the battle of Plassey, India has gone under the subjection of another people, and if 1936 is deemed as the last year of subjection, we shall have to admit that for nearly one hundred and eighty years the domination of a Western tribe has affected the country so much, that the people for a time began to look helpless, finding the masters over them too strong, and themselves unable to displace their authority in any way. As a result of this super-position of *another race*, the country began to feel that it has completely failed in building a stable and correct civilization, but all this is due to incorrect observation of the past, and also due to incorrect observation of the present times.

Dynastic changes and their effects—Comparison of their difference in India and in other countries.

The fact of the matter is that India is the most successful country on earth, and, with the exception of China, the continuity of its glory cannot be rivalled. The political dependence will soon be realized as a story of the past, and a proper frame of mind will be there to understand the really glorious career of the country.

In Europe and Western Asia every country has been conquered and re-conquered by others. Foreign dynasties came either against the will of the people, or with the consent of the existing government, supported or unsupported by the people. The dynastic changes in Britain itself have not been few. The Celtic people were conquered by the Romans, the Romans left the shores and the Angles and the Saxons came. They again were invaded by the Dutch, and then, after a temporary resurrection of the English power, they again were suppressed by the Normans. From the period of William the Conqueror, for several centuries, the Normans were not identified with the English, and the language which the King spoke was not English. Even Richard the First spoke and behaved like a foreigner. The well-known Tudor family was of Welsh origin, and after the death of Queen Elizabeth the Scottish kings came. After the last of the Stuarts we find a continuity of either German or Dutch rulers in England, and the present royal family of England gave up their German name only during the Great War. So the existence of a foreign royal family, and with it the super-position of some foreign noblemen, is a very common phenomenon, from which even Great Britain is not exempt. If the out-landish character of the royal

of sectarian attitude that they discarded their ruler, and invited a foreigner, like William, Prince of Orange. Thus, in inviting a stranger in order to suppress a party at home, England was not in any way behind any other country, and yet nobody thinks that England was much worse off for that. In India there has been the same case. If there were a change of dynasty, India did not mind it much, for reasons already explained. Because there is a change of dynasty it does not mean that the country is under subjection. All that happens is that the ruler patronizes some things of his own fancy, and sometimes that fancy may verge towards a particular language or religion. But in general, whosoever comes, he has to protect his country and to advance its economic prosperity. Because Mahommedans entered the country, and because some dynasties were Mahommendan, it should not be regarded that the country became a dependent one. In the days of Aurangzeb or Shah Jahan one cannot say that the country had no independence. But a fallacy arises in observation because, during the time of Shah Jahan or Aurangzeb, the ruler and the majority of subjects were of different religions; but this fact did not trouble India so very much. With the advent of Mahommedan kings throughout Western Asia older civilizations were swept away. Because Roman Emperors accepted Christianity the older religion of Europe was destroyed. If we compare the fate of India with that of Western Asia or Europe, we shall find that both Western Asia and Europe were subjected to conquest, but they, with the conquest, lost their ancient civilization, and India alone maintained it.

Should we, therefore, call that country whose civilization has a stronger backbone, and that accepts a new power only as a physical power, but resists the destruction of ancient civilization, an unsuccessful country? Certainly not! We must come to the conclusion that India alone succeeded in taking all that is valuable in the new, maintaining still continuity with the past. And in this matter it is in advance of other countries; certainly in advance of England, which still expects its King to be a parochial person, and asks him to take an oath maintaining all angularities of mutual hate and uncivic character. Fortunately the barbarous oath was greatly modified when King George the Fifth was crowned. The mighty Persia, with twenty-seven satrapies, when once conquered by a Mahommedan ruler, allowed its ancient civilization to be wiped out; whereas in India strong Mahommedan monarchy continued, without permitting the Mahommedans to uproot the ancient culture, although, at the time of invasion, the invaders caused some destruction. The foreigner could naturalize himself without being compelled to take the religion of the people, or without compelling the people to accept his, and thus in India the question of separation of Church and State was solved in remote antiquity.

3. India is definitely a successful country.

It should not be deemed, therefore, that India is an unsuccessful country. India is the only country which maintained ancient civilization, and at the same time accepted or welcomed stronger politics whenever she found them With her own consolidation-ideas she made

it easy for a fit person to come and to assume the highest office in the State, and she founded methods of uniting two countries, two States, together, by constitutional measures of their own, according to which the King of England is brought into a place of the highest importance.

CHAPTER VI.

BRITAIN'S COLONIES AND INDIA, AND THEIR DIFFERENT LEGAL STATUS.

1. India is neither a colony nor a conquered country, therefore her legal and political problems are different.

In law the colonies of Britain and India are on a different footing. Colonies are Great Britain "gone out". They are a part of British sovereignty trying to set up new households subordinate to that sovereignty. The case of India, however, is different. Several sovereignties of independent origin have merged together, and have created the Empire of India by unity of Diwanship. India is not a country conquered by Britain, but a country which voluntarily has associated her own sovereignty with that of Britain, to achieve a common purpose, as is explained herein elsewhere. The legal and political problems of India adjusting her relations with Britain are, therefore, necessarily different from those of the British Colonies and Dominions which Britishers have created. The Colonies,

Parliament. The word 'Parliament' began to be used in a different sense, but this original meaning cannot be lost sight of for legal purposes. Whatever is agreed upon between the two is naturally undisputed, and is supreme to the Act of Parliament i. e. to the result of conference.

Royalists and Democrats may persist in their own way to adjust the word sovereignty to their own desires, and yet the word sovereign continues to go with the monarch because of the growing character of His Majesty's possessions. With every addition to the Empire, either a new constitution had to be drawn up, admitting the newly-added territories to the political bodies of England, or an independent place had to be given to those territories in the system. The King is king of those territories also, and so, if he gives the bodies their legislative rights, the British Parliament naturally begins to claim that those legislative bodies are inferior to their own body, which is sovereign and supreme. There have been many attempts of the Lords and Commons to arrogate to themselves the coveted word, but still the sovereignty of the King persists. When the King invited the Lords and Commons, their conference with the King was strictly called 'Parliament', but the Lords and Commons began to use that word to the Houses, but legal right or authority of a sovereignty is to the conference, and certainly not to the two Houses. They can come to an agreement with them without conceding to them any sovereignty. The right of a king to consult anybody whom he pleases is admitted by all jurists. In the

therefore, are seeking a goal, namely of a partial sovereignty, which India need not seek; and here lies the difference in the kind of political action which India must have in order to make her own political life profitable to her own people, and to co-operate with the empire and the world.

2. Character of British Parliament's Authority.

British Colonies expected the mother-country to legislate, and Britain legislated for them. When the Colonies grew bigger they began to resent the authority of Britain, and especially Britain's claim to the right of taxing the Colonies. As they began to resent, Britain did not practise its 'Right', although lawyers, like Dicey, have been teaching Britain's young ones that Britain has the right to tax them, and that Britain has sovereignty over them. This claim, however, has not been conceded by the Colonies, and Britain also has formally given up that attitude by the Act of Westminster. If we pay attention to the way in which the British Parliament grew, that Parliament's claim of super-authority can never be conceded. Even if the British Parliament had any legal right over the Colonies it has no right over India. The sovereignty, in Britain's legal expression, belongs to the King, and the King alone. The persistence of the legal expression of the King's sovereignty has to be kept in view, in order to understand the entire fabric of British law and political practice. As it is not possible for the King to rule, paying attention to all subjects, he invites the Lords and Commons to speak to him, and conversation between the King and the people is called

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legal expression prefaced to the Acts of Parliament it is stated that the King has obtained the consent of the Lords spiritual and temporal and the Commons in the Parliament assembled, and by the authority of the same. This wording is indicative of what was decided by the King after taking the advice and consent of the various contributors to the State funds, and nothing more. The leader of the Commons is called the Speaker, because he speaks to the King regarding the condition and wishes of the Commons. The King used to attend the House of Lords in person and consult the Commons through the Speaker. The place where they met was the house of consultation, that is, the House of Parliament.

ment" (*Vaira-deya*)* i.e. payment which the injurer should make to the injured, or to the relatives of the person killed, for giving up the enmity. The king used to get payment for his good offices. The king used to charge money for public services, such as keeping a ferry boat to ford a river, which he used to render. He used to receive payment for rent of a market, and that payment differed according to the character of goods brought therein. When he used to make these charges he used to consult the guilds of merchants [See Laws of Manu, who admonishes that king should consult the various councils]. Thus when the king wanted to raise more money he naturally had a parliament with the people concerned—whether it was a town (Paure) or village (Janapada.) Thus the king used to raise more money with the help of the people concerned. He used to determine law for each group of merchants by parliament with their bodies. Such parliaments must have existed in Britain also in the old Celtic or Saxon days, since both Celts and Saxons are of Aryan origin. Caste-panchayats of artisans also were encouraged by kings, and were accepted for consultations. The king's claim over the services of artisans could not be exacted at a distance, and thus the rule of money payments came in for them. All such changes in order to avoid conflicts were made by Parliament i.e. mutual consultation. If proper research is made on the subject, the writer feels sure, it will be found that the general Parliament, like the

* See the word *Vairadeya* in "The Vedic Index" by Macdonell and Keith.

Colonies and Dominions is wrong, inasmuch as the British people were migrating people long before the Parliament came into being. When they went, they went under the protection of their King, or trusted to the protection of the King when they went. The King has a Parliament with people because he has to tax them, but it is wrong to suppose that the King will care to confer with the British Houses in order to tax people abroad. It is, therefore, Britain's Parliament Houses who must be regarded as the chief makers of trouble for the British Kingship, inasmuch as they claimed the power to themselves. Claiming sovereignty to Parliament, ignoring the real reason of their power, Parliament became supreme, because the two Houses are in conference with the King, and whatever is agreed upon will go undisputed, and the Judges in Britain enforce these undisputed acts. Act of Parliament, executionally, means an Act decided upon by conference, and having mutual consent. This supremacy remained for that realm only, which was represented by representatives. To India and Colonies British Parliament means nothing but a conspiracy of the two Houses to mislead His Majesty. Thus, not only according to constitutional law of India, has the British Parliament no place in the legal fabric, but British law also will be against the British Parliament having any control over India and the Colonies. The tendency of the British Parliament is to recognize that fact, and that is expressed by the Statute of Westminster. India does not need that Statute, because all the powers conferred by the

present one, arose out of the combination of various Parliaments of town and country where the territories of the king became enlarged. What things should be done in Parliament, and what should be done by the king independently of Parliament, depended on whether the king wanted money or not. Parliament was there to come to an agreement of taxpayers about the raising of taxes. There were some items of income of the king before any Parliament was called and agreed to any payment. Those things are essentially the prerogatives of the king, and paying attention to this principle, restrictions existed on Parliament also. The nature of the Parliament itself decides the extent of Parliament's power. People who consult together and project anything, must necessarily project about matters that concern themselves. If they prepare a policy about others it will become a conspiracy or an invasion. If representatives of Britain have a Parliament with their King about the use of India's money it will become a conspiracy, but inasmuch as the King can do no wrong, the blame of this illegal act must be fixed on the two Houses. It has to be shared by His Majesty's ministers also with the Houses of Parliament. Thus, making any law for taxing or governing the financial matters about India is not only ultra vires, but illegal amounting to criminal. It is a fact, therefore, that all Acts of Parliament regarding India, which aim to bind Indian people, are invalid, and an attempt to enforce them by officers in India will technically be a criminal act.

What is said about India is true about Parliament also. The British Parliament's authority over the

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of governing Colonies thenceforward. The representatives of people who are near the centre of government, trying to get advantage out of people who are distant, continued, and the worst form of it has been seen in Britain's attitude towards India. People who are near the King take advantage of their situation, and sacrifice of the interests of the distant and unrepresented peoples is the only factor in which the governance of India and of the Colonies is alike. This abuse had been going on irrespective of the constitutional law. Law of governance of Colonies and of India cannot be alike, although the attitude of Britain towards India and the Colonies may have been alike as far as taking advantage of their situation is concerned. In fact, with India, the attitude has been that of spoil since the days of the East India Company, and is gradually being moderated with the advance of the times. With the Colonies their greed is tempered with sympathy, whereas with India there is no such thing as paternal sympathy, and if the greed is at all tempered by any softer feeling, it is from the consciousness of a possible revenge by a strange people, whom they wanted to hold in subjection.

5. Enlarged Politics and Sovereignty of the Constituents.

Britain's political achievements have not yet materially altered their constitutional conceptions, but it is expected that they will be altered materially in the years to come, and the empire's true constitutional law will be laid down. At present there is a certain amount of poverty of thought on the subject. As already explained elsewhere in this book, the

it does not mean that India does not possess that right. Removal of that clause simply means that the British Parliament does not expect India to inform Britain about the war. As a matter of fact, it is not likely that India will ever wage war with England without consultation of Britain, since the Governor-General, the Emperor's Representative and the Commander-in-Chief will be appointed directly by the Crown, and will be in close touch with the Government of Britain, but for the sake of clearing up the question of sovereignty, it must be stated that there *can* be war by India, with or without consultation with Britain, and purely in the exercise of the sovereignty of the Empire of India in the matter of war and peace.

8. Advantage of the new measure: opportune and intelligent change.

Thus the power of the Government of India has been transferred from Whitehall to Delhi. Another measure adopted by His Majesty's Government is that the new Secretary of State for India has been a former servant of the Government of India, and is a member of the House of Lords. As a member of the Upper House his seat in Parliament is not dependent on the will of British voters. This change was very opportune as it is very intelligent. Before the period of complete separation of the India Secretary from obligations to any political parties, it is an advantage that the new Secretary is at least free from the control of British voters, and, therefore, less likely to be subjected to wrong pressure.

The question may be asked as to the value of the Act in Law. The legality of enforcing the previous Acts of Parliament was not questioned by anybody but the author, but it is likely that this question will come, one day or another, before the Federal Court So far as the Act stands it binds Britain and not India India permits the enforcement of this Act by sufferance That British party influences, which bring a man to an office or remove him from it, when exercised on the India Secretary, give rise to incorrect administrative acts is a principle which seems to be recognized After the election of 1935 the ministry changed, but left the India Secretary undisturbed

India was required to do in his dependent position during the last seventy-five years would have been detailed, and a long history of forgetfulness to Indian interest would have been disclosed. Moreover, they must have taken into full account what was intended to be conveyed by the paragraph, already quoted above on page 20, from the present writer's notice issued to members of Parliament individually and collectively.

CHAPTER VII.

COMMENCEMENT OF ACTION.

1. Self-Government; Dominion Status; Swaraj.

The writer has been a member of the Congress and attended several of their sessions, either as a delegate or as a visitor. The differences of his views from those of the Congress became clearer to him after the Lahore Congress, whose resolutions regarding the Congress objective he completely approved. He did not, however, realize, until he tried to further their objective, that he could not expect any co-operation from them, as the Congress leaders were passing resolutions without the slightest understanding of the legal principles which made those resolutions possible. Congress leaders hithertofore have been following closely the dictates of advanced British thinkers, and were simply carrying out their ideas and thoughts, more or less under their guidance. The British teachers taught the ideas 'Self-government' and 'Dominion Status', and the Congress picked these up. In the meanwhile

the word 'Swaraj' came to be used at the Calcutta Congress of 1906 by Dadabhai Navroji. It was used at a time when extremism was growing in the Congress, and the Congress propaganda of British masters was to be popularized. The old word was taken up and put to new uses. Whereas the public understood by Swaraj the governance of people by kings or people of their own race, the leaders simply meant representative institutions as taught by the Westerners. Thus a word with unclear meaning was to be used to get the required following. The leaders had a duty to perform. They had to approximate the sentiments of the people to the legal principles which were taught to Indian leaders by British masters. Indians learned from the British the legal system which the British made current in India, but there was no original thinking in law. Therefore, when the public sentiment and the legal theories they learned from British masters happened to be approximated, they were approximated, not to the real law of the land, but to the British understanding or exposition of it.

2. Indian law expounded by the British.

Indian law, as Britishers expounded it, was taken as it was given to them, and the entire Indian legal and political phenomena were simply forced into the British exposition, which was intended to suit the practices of British politicians. The unity between the two countries was a development of Indian law, which governed Indian political life. The British State was even unable to grasp the strange way by which India became united to England, and British lawyers,

not having studied inductively the Indian legal phenomena, simply tried to adjust the Indian legal system to their own, clumsily, in their own way. They began to regard India as a conquered country, but forgot to examine the basic facts, which would have told them that the facts and law are otherwise. Indian politicians wanted complete independence, leaving the thinking to the British, and themselves choosing to work along the line of directions given by the unthinking British. They were simply pupils of Britishers. They took the legal principles given to them for granted and worked on them. The law of Empire development, which arose in India, was unknown to the British masters more or less. British masters simply understood the law of the mother-country and colonies, and have tried to apply that law to India, which was simply a result of seeing things from a wrong standpoint. This lack of correct thinking will be found to be the ultimate cause of wrong political effort.

3. **Mental antecedents of the author being slightly different he preferred a new method of working.**

The author, a Maratha Brahmin, is a person belonging to a caste of men who were privileged to rule India in the eighteenth century and laid down the methods of achieving unity. These methods were afterwards taken up by a British Company which, with the advantage of superior arms, succeeded in the race for power, and with it achieved the unity of India. But the power which authorized the foreign company was Indian, and the principles on which they worked were Indian, and not European. India became one Empire,

but as the head of the State remained in England, those who were near the ruler acquired power over the Indian people, against which India had to struggle The struggle was commenced by early patriots in India, who did not trace the real cause of India's unhappiness They worked in their own way, and obtained for the people of India some semblance of self-government But as long as the highest officer of the Indian Empire was subject to Parliament, the self-governing institutions which were granted became really injurious to the people After the Lahore Congress, when 'Purna Swaraj' was given out as the immediate objective of the Congress, some display of effort became necessary for the leader, Mahatma Gandhi, to attain the immediate objective , but for some time he seemed to postpone action At this juncture the writer thought he could give them a lead about the correct way, and make the civil disobedience movement unnecessary The writer wanted to hold a public meeting in Bombay in the week following the Lahore Congress, in order to commence action to substantiate the idea of independence or 'Purna Swaraj', which was the immediate objective of the Congress, and therefore he wanted that meeting to pass resolutions inviting His Majesty to come to India and to govern India by India-made constitution, and to pass additional resolutions expressing lack of faith in the capacity of the Parliament representing non-Indian interests to frame a constitution for India, which the Emperor of India could accept But the leading Congressmen in Bombay absolutely refused in the co-operation, as they did not regard the Parliament's power

as challengeable. The author, however, wanted to further the idea of illegality of the power of the British Parliament, and gave an interview to a Bombay paper 'Naubat' explaining his ideas. In that interview Mr. Laljee Pendse, the labour leader, who had been the editor of the journal, asked him, "How shall we manage the State if the British refuse to co-operate?" The author replied to that, "If we are required to attend to our own defence when we are not prepared for it, and if British officers refuse to serve, we can give defence contracts to countries like America, Japan and Germany, stipulating with them that our men shall be prepared for sole control within a few years." The interview was regarded more or less as a joke.

4. Refusal of co-operation by Congress people; Organization of Self-Determination League; Telegram sent to His Majesty suppressed.

The Congress people having refused to hold a meeting of the kind the author desired, expressing allegiance to the King and objecting to the British Parliament's authority, there was a parting of ways. Since then the author has followed his own counsels and commenced action unaided. There was a Self-Determination League organized in the year 1927, having only two members and a number of sympathizers. The author was the President, and the other member was the late S. B. Tilak, the unfortunate son of Lokamanya Tilak, who worked as Secretary. These two persons alone were expected to pay the expenses of the League. After the death of Mr. Tilak the League had the author's wife

as another member, so that the minimum number of two persons required to form a Company or association was maintained. More paying members were not made, but sympathizers were registered, as it was undesirable to have any disunion by difference of opinion and because the author did not want any disturbance in his course of action. The highest political men in the country being believers in the legal potency of the British Parliament, numbers would have simply caused disturbance. Even most of the sympathizing members were doubtful regarding the validity of his attitude. When he found that the Congress could not be moved to invite the King to be freed from the grip of British politicians, so that Indian opinion could approach him directly and thus develop into a regular institution, he decided to invite His Majesty himself in the name of his Self-Determination League. He telegraphed to His Majesty the Emperor of India an invitation containing the gist of the resolutions which were to be passed. In that cablegram the likelihood of the commencement of the civil disobedience movement was also explained. That telegram was suppressed, but the news of his having sent that telegram appeared in some newspapers. In the author's opinion, that movement could have been averted if His Majesty had accepted his suggestion, but as Government, under Parliament's control, interposed, the Government and Parliament are responsible for that movement. The author did not take any further course of action till Mr. Gandhi's movement had its full play, and when he realized the

latter's complete failure, and that he has commenced only his fasting spectacularism of hardly any public usefulness, but useful only to concentrate attention on himself, he decided to commence warfare against the British Parliament single-handed. He knew he was going to succeed, and he has succeeded. The governance of India has been freed from the British Parliament's control, and, he hopes, for ever. We shall now have to commence strong co-operation on terms of equality.

The progress of the trial, with extracts from documents, may be given here with advantage.

CHAPTER VIII.

LEGAL AND POLITICAL EFFORT.

1. Notice served on Secretary of State for India.

On the 8th of February 1932 a notice was served on the Secretary of State for India through the Collector of Poona, asking Sir Samuel Hoare to give up his seat in the British Parliament and thus cease to be responsible to that body, and that he should desist from making a clique along with other ministers responsible to the British Parliament, and that he should stop resigning with other members of the British Ministry. The notice was served on the 8th of February, but was acknowledged on the 9th of March by the Collector. During the time that passed between, the Personal Assistant to the Collector tried to frighten the author, and showed his anxiety that these projected proceedings will cost a large amount, and wanted

to know whether the author was well prepared to meet the cost, and whether he was assisted by Congress funds. This question was a very pertinent one when Congress was declared as an illegal association.

2. Material portion of notice quoted.

Material portion of the notice is as follows:

"India is in theory and in law an independent country. The Emperor of India is subject to nobody. When the Emperor of India is not subordinate to anybody how can India be a dependency, a term which is made so popular by publicists in England? *If India is a dependency it is so simply because the chief* Executive of India, who is supposed to honestly serve India's Emperor, is an agent of another State, viz. Great Britain, and is responsible to their Parliament.

The Emperor has to govern through a local Secretary. *Had that local Secretary's Office been conducted by independent and honest traditions the present problem of India's dependence would never have arisen.* But unfortunately this has not been the case. The present Parliamentary practice results *into making this Secretary a tool in the hands of* those thieves and exploiters in Great Britain who wish to use the Government of India for their advantage. This practice of making the Secretary of State a representative of a *British* constituency, and *making him responsible to the British Parliament*, has unnecessarily placed under subjection the people of India and has created thievish expectations amongst those who are in a position to influence the Government. *The Secretary of State for India takes*

mandates from the ministers of the Government of Great Britain and receives his office as a member of their Parliament, representing a constituency within that State.

When a British statesman is responsible to the people of Britain he cannot serve another country honestly, as it is humanly impossible to honestly serve two masters. Therefore when a representative of a British constituency takes the chief appointment of India he must give up his seat in the British Parliament as a representative of his petty constituency, but the Secretary of State for India does not do that; and your predecessors have recently started taking salary also from the British Treasury. Whatever may have been the motive when this 'Reform' was made, this reform has made dishonesty more shameless than ever. You are now a servant of the British State with powers over all revenues of India, whom you are bound to rob if you wish to please your robbing masters.

When the chief executive of India takes consideration from a foreign state he agrees to run the Government that is entrusted to him, not for the benefit of the people whom he is called upon to serve, but for his paymasters. Thus you will realize that your legal position is simply that of a dishonest, bribe-taking individual. Your office is organized, not for the protection of people of India, but to make.....
.....most systematic and methodical. You may quote some statute to justify your position, but that will hardly improve matters. Your position is as il' ' l as that of the British Prime Minister taking

ation from the U.S. Government and quoting American Statutes for his support.

I feel confident that when these things are pointed out to you, you will yourself dislike this adulterous practice. You are cheating the Emperor of India for benefitting the people of Britain, not even the real people of Britain, but the people who may have helped your personal election, or the election of the present Government, by paying part of the expenses and are in your good books, and who must be daily around you for getting some benefit at the expense of India. Whether this is happening or not, every thinking person in India will be suspecting you of this. All the ills of India arise out of the primary dishonesty—, not your dishonesty of person, but dishonesty of your situation —a situation not necessarily created with intention to rob, but a situation that has grown by the proximity of the expectants. I hope you will fight against the dishonourable situation yourself as an honourable man who does not wish to give cause for his honesty being impeached. But at the same time I do understand that every wrong is supported by vested interests who will not let you be honest, and, therefore, I am compelled to remonstrate, and to say that if you do not promise me to mend the matters, and do what I have asked to prove your honest intention, I shall have to proceed to proper court for the purpose, and get this dishonest practice abolished. There is no excuse at all for your continuing this practice. India is an independent member of the League of Nations, and an independent State. Its dependence arises from no

to follow the path of correct law and fidelity to the people of India and their Sovereign.

When the Secretary of State for India is responsible to British Parliament that responsibility will be beneficial, no doubt, to some extent. It may be better that the Secretary of State for India is responsible to somebody, instead of being responsible to nobody at all. The necessity of giving replies to questioning Parliament will prevent gross misrule, and we can say that this service is being done by British people. But this usefulness of responsibility to British Parliament has long passed as there is a legislature in India, and now the responsibility of the Secretary of State to British Parliament serves only to smother the voice of the people.

The peculiar position of the Secretary of State has one unhealthy peculiarity. He is compelled to face, day after day, expectant members of the House of Commons who are spokesmen of their constituencies. Organizations, which are intended to make profit through Government agency, try to influence the Government. The Secretary of State may, therefore, in order to keep his own position, and in order to maintain the popularity of the Government of which he is a member, be compelled to satisfy those who are behind the members of Parliament. The Secretary of State is, therefore, placed in a most unnatural position, and has to seek various devices by which he can thwart the opinion of those who may go against him in India. It is for this reason that provision is made generally that the Secretary of State for India

need not be bound by the majority vote of the India Council members. He evidently distrusts those members also. The Secretary of State, by various devices which are used in the constitution of India, defies the public opinion by supplying the veto powers and certification powers to the executive officers whom he appoints or dismisses in the name of the Emperor, and thus he can exercise autocratic authority, keeping the farce of election, popular rights and electing constituencies. Thus the Secretary of State for India is compelled to keep loop-holes in the administration for thwarting the wish of the people and doing things as he pleases, or rather to do the bidding of the political bosses who are influencing the Governments of your country.

If the Secretary of State were an independent man, firm in his power, not subject to the will of others, he would have been useful. But subject as he is to the power of greedy men in Great Britain, his great powers are the greatest nuisance in the constitution and they are utilised not necessarily for moral purpose.

The peculiarity of his position has the following consequences on the State i.e. the Empire of India. He is required to maintain a foreign standing army in India, and a very expensive one too, in order to maintain control over India, in spite of people's wishes which he knows will go against him some day or other on account of the systematic loot which he is compelled to practise. The officers whom he appoints in India hold their appointments, and can continue

their appointments, even if they show utmost disregard to the feelings of the people. When officers so unremovable sit over people who are systematically disarmed people and made helpless, the officers so privileged are hardly expected to be really working for the good of the people. No servants can work well without fear, and the officers here need not fear the people at all. They are responsible only to Governmental hierarchy, and the topmost officer of this hierarchy is subject to the will of a foreign people, in fact not to the whole country, but actually subject to the greedy policy of those who want to exploit India. The only control above the Secretary of State is of questions in the Parliament which may be asked on the grounds of humanity by some members. But these members can be silenced by giving misleading information, and sometimes actually false information. As the Secretary of State knows that it is his practical duty to exact money from India, and that as India's opinion may resent it, naturally every trick is resorted to to smother the voice of the people who are given some scope for self-government.

policy of the Government of India, and Government's professions for the interest of the Backward, are primarily the result of the intention on the part of the Government of India to choke the voice of the country. The Government of India show anxiety for the interest of the backward classes simply because these classes do not understand how India is being robbed, as they cannot understand the maze of political fabric. They can be seduced by Government from their natural protectors, that is, 'the understanding classes'. The Government of India, itself being imprisoned in this fabric of British Parliamentary dishonesty, is compelled to give facilities to the English middle class to get jobs in India, and to English merchants and manufacturers to sell goods in India, and to keep the trade mostly in the hands of Englishmen. The Secretary of State is compelled to initiate, or at least to encourage or to condone, this policy and in order to continue it the voice of the educated middle class in India has to be silenced. All British political cleverness seems to be utilised for this purpose.

The constitutional wrong is really subversive of all progress. When people in India realise that practically nothing is left in their hands, and that Government is all in all, and is subject to outside force, all the desire for self-improvement vanishes. Reformers after reformers with noblest motives have failed to achieve any reform, primarily because Government is responsible to foreign people.

That the British Government is entirely callous about the interest of the uneducated and ignorant classes can be easily proved by voluminous evidence I give you one of my own experiences About two years ago I requested the Government of Bombay to initiate legislation compelling pawn-brokers to give receipts for the goods pawned by needy people I had pointed out to the Government that I had found in Poona that the pawn-brokers do not give receipts, and as no pawn-broker gives a receipt the borrowing public becomes helpless I had asked the District Magistrate to take notice of this and compel the pawn-brokers to give receipts He pleaded inability as he has no powers to do so, and hence I had asked the Government of Bombay The Government of Bombay having refused to initiate legislation (Vide No 0/2732-B Home Department Bombay Castle, 22nd March 1930) to protect the poor, I referred the matter to the Secretary of State, and the Secretary of State also was silent I am positive that if he were not responsible to another people he would not have neglected this ordinary demand in the interest of honest dealings

India's manners also are being corrupted by this constitutional defect As great officers are entirely careless about India's opinion which cannot dismiss them, carelessness to public opinion has become a virtue, and has become a sign of greatness The more careless you are about the good opinion of your neighbours, the more superior you are So such has been the effect of the defective character of the present political practice which I propose to challenge

I therefore call upon you that—

1. You resign your membership of the British constituency which has elected you.

2. That you do not draw salary from British Treasury any longer.

3. That you deny your responsibility to British Parliament, as Chief Executive of the Emperor of India has no reason to explain his conduct to British Parliament.

4. And that you notify to the British Government that you do not intend to resign the office at the bidding of the British Prime Minister when the British Parliament votes lack of confidence in the existing British Ministry.

5. That you persuade His Majesty to govern India directly and appoint only such Ministers in whom people of India have full confidence without enquiring into the pleasure of the British Parliament.

Failing to receive satisfactory reply in reasonable time I shall consider myself free to proceed against you after two months from the date.

Yours respectfully,
SHRIDHAR V. KETKAR,
M.A., PH.D.
Editor of Marathi, Gujerati, and Hindi Encyclopaedias.

Poona, 8-2-32.
145, Main Street.

3. Suit filed nine months after acknowledgment of notice by Collector of Poona; in the meantime Author's attempts to ascertain attitude regarding the legal point.

A suit was actually filed nine months after the notice was acknowleged by the Collector, that is, on 9th of December 1932.

During the time that elapsed between the service of the notice and the commencement of legal proceedings, an attempt was made to ascertain the attitude of the Government regarding the legal point. The author interviewed the Assistant Political Secretary of the Government of India in March 1932 at Delhi and desired an opportunity to place this matter before the Viceroy. This opportunity was not granted. The Assistant Political Secretary also declined to make any commitment regarding the acceptance of the principle, so that legal proceedings could have been avoided. How far the Government in England was disturbed by the notice and legal proceedings cannot be ascertained definitely, but, notwithstanding the studied silence of the Government, it appears that His Majesty's Government were revising their own notions as to who should sit in Parliament, and they acually unseated two members of Government. This happened in the latter part of April *i. e. about the time when two months after* the service of the notice had just expired. It seemed that the Government were preparing British minds to see the unseating of the Secretary of State for India from Parliament.

The author was in Burma at that time and could not have pursued the case at once. He had to show, however, that the project was not out of his mind, and so he served notices on the Viceroy and the two Governors of Bombay and Bengal asking them to suspend their obedience to the Secretary of State for India as long as the latter continues his misbehaviour, that is, spoiling the interest of the Emperor of India

by being responsible to non-Indian interests. Excepting an acknowledgment from the Government of Bombay no response was received.

4. Behind the scenes in England: relevant events.

In the meanwhile, in the third week of July 1932, the author noticed in *The Times of India* a statement from the correspondent of *The Times* that there was for the first time a dispute in the Cabinet over the question of India. And it was also stated that a very confidential meeting took place in which Sir Samuel Hoare explained the Indian situation to leading Parliament members. What happened exactly in the meeting or in the Cabinet is not known. The only thing which betrayed what must have happened is that Mr. Winston Churchill began to shout loudly about restoring the sovereignty of Parliament over India. Evidently the talk behind the scenes was about the legal sovereignty of India, and a certain number of members of Government must have been convinced about India's legal sovereignty, but must have felt constrained to tell the truth in open Parliament, because they realised that what is said in Parliament will be heard in India, and if the people of India had known about their country's sovereignty, Britain's talk about giving rights to India and their assumption of the right of determining India's constitution, would have become at once meaningless, and then Indians would have realised that they have been cheated all along. Hence there was the necessity of secrecy. When Churchill was shouting about restoring the sovereignty of Parliament

over India the ignorant mass of Indian leaders never felt the strangeness of the assertion, because it takes some knowledge even to permit of some rational surprise Government, this time having realized their own lack of power to frame laws for India, wanted to commit the Indian legislature in some way or other When they framed the constitution of 1919 the authority of Parliament was not challenged, but this time, authority of Parliament being challenged Government wanted to pretend that Parliament was simply adding their experience, but the real determinant of India's constitution was the Indian legislature itself, and the Government utilized the services of the British Parliament to assist India, to enable India to frame its own constitution, but that plan was frustrated by disadoption of the Joint Parliamentary Committee's schemes by Indian legislature The Indian public and lawyers began to wonder what this disapproval by Indian Legislature of the Joint Parliamentary Schemes amounted to in law The Government of Britain, still wishing to keep up the projected plan so that the Parliament's course of law-making should not be disturbed, prepared an India Bill, published it in India and England, and got it ultimately passed, but whether the Indian Government was bound to obey the British Parliament or not, and whether the Government of India is a legal entity or not, were issues decided in India already And in assertion of India's independence Government itself was a party When the Indo-Japanese treaty was to be signed the Japanese delegation had gone to England, but the Government of India, having asserted

its own right of treaty-making, the Japanese delegation had to fly back to India in order to get the treaty signed, although the British ministry put their signatures to the treaty afterwards, so that they may still claim the right of certifying the treaty. Not only that the Government of India wanted to assert its right of treaty-making, but Government decided also to assert itself against the British Parliament. When the British Parliament wanted to increase the life of the old Assembly which was full of men convenient to Government, Congressmen having kept themselves out by boycotting the Councils, the Government, i.e. the Viceroy himself, thwarted that presumption of the British Parliament regarding the life of Indian legislature. If the Viceroy believed in the legal potency of the Parliament he could not have dissolved the Assembly taking its own vote. So these two commitments of the Government of India were a direct challenge to the authority of the Parliament. But no Indian body, excepting the Self-Determination Conference of Maharashtra convened by the author and held on the 30th of September 1934, congratulated the Government of India on this self-assertion.

5. Legal and political proceedings carried on by the writer.

To return to the legal proceedings, the suit was launched on the 9th of December 1932 and was dismissed by the First Class Sub-Judge on the 9th of January 1933. Further appeals were made to the District

Court and to the High Court of Bombay with no success. A petition to try the case under Letters Patent was disallowed; thus legal proceedings in India came to a termination. Justice Murphy orally, but not in writing, stated that these matters can be settled in England, and that the Municipal court, like the High Court of Bombay, has no powers to try a case like this. He refused to show his authority for that statement.

Side by side with the legal proceedings political proceedings were going on. There was no person, among the seven members of the Government of Bombay whom the author had a chance to interview, who doubted the impropriety of the Secretary of State for India being responsible to the legislature of another country, but they could not back him in the matter.

In the year 1934 the author had attempted to persuade the Assembly about striving to eject Sir Samuel Hoare from Parliament. Mr. Aney and Dr. Khare gave him the opportunity of meeting the various members by organizing a tea-party. Some members were convinced and others were not, but there was a fair backing to the idea that the propriety of the Secretary of State for India being responsible to the British Parliament should be discussed in the Assembly, and Dr. Khare gave a resolution objecting to the existing state of things. Before this resolution could come up for discussion Sir Samual Hoare resigned, no doubt for the benefit of Britain's foreign relations, and the Secretary of State for India's being a representative of British voters is a charge which cannot be levelled against the present Secretary of State, who

happens to be in Parliament by his own right, being a member of the House of Lords. The charge of conspiracy of holding and leaving jobs at the instance of British party exigencies also cannot be made out against him, since he has not left his appointment as a result of the election of 1935 to suit the expectations of British interests.

One of the charges which the author made against the Parliament was that they bring to the office of Secretary of State for India a man entirely ignorant of India (para. 18 in the author's notice), but this charge is inapplicable, for the first time, in the appointment of the Marquis of Zetland.

6. The Material portion of the Memorandum of argument made in appeal to the High Court, Bombay, quoted.

"Even if the British Parliament had any legislative power over India the place of contract between Indian rulers and the Honourable East India Company was India, and default in the contract shall have to be taken cognizance of by the Courts in this country primarily. Inasmuch as the sovereignty of His Majesty as ruler of India pervades all over the country, injury to that sovereignty by action of His Majesty's servant is done throughout India, the Courts throughout India have jurisdiction.

It should, therefore, be understood that as constitutional documents have originally been executed in India, every constitutional question arising therefrom has to be decided by Courts in India. It should also be understood that the rules and regulations which

the British Parliament may have made or may make for India have no final authority, but the legality of those rules is subject to the contents of the original charters, finding on disputed points must be expressed by His Majesty's Judges in India The Judges in India have complete jurisdiction even over statutory rules of Parliament when those rules affect India, much more, therefore, have they the right of deciding on Parliamentary practice about the governance of India The chief object of the case is to free the Secretary of State for India from the control of the Parliament representing merely British interests The plaintiff-appellant need not really make a statement of law and evidence at this stage of trial, but when acceptance of the plaint itself is the issue before the Court, the plaintiff is required to do something towards it It is necessary to give to the judiciary as complete an idea of the entire case as possible, as judicial mind is generally unwilling to disturb current practices unless they find extremely important reasons It is the desire of the plaintiff-appellant that the case should be tried in Courts in India and not in London as the First Class Subordinate Judge, Poona, suggests The increase of prestige of the Courts in India is also an important object of the plaintiff appellant

India is an independent sovereignty, and it will be in fitness of things that the Courts in India should be given a chance to maintain their own privileges, and the plaintiff will feel gratified if, by ordering the trial of the case, the Courts maintain their own prestige and also the prestige of the country The suggestion that the

Courts may not maintain their own rights and prestige does not arise in discourtesy. It often happens that the class of people or the interests which a public worker is fighting for are themselves unwilling to co-operate with him through the fear of their oppressors from whom the public worker wants to relieve them. Negroes in the South fought against the North in the American Civil War which was declared by the North to free Negroes. This case is initiated to give complete freedom to the Government of India, but the Government of India itself is nervous about the matter. The appellant has corresponded with Governments both Viceregal and Provincial, and interviewed various members of the Government of India and Bombay, asking them to co-operate with him in some way or other, preferably by joining him as co-plaintiffs, but he has found that these Government members also are labouring under fear and, therefore, unwilling to arrive at a resolution that the Government should join with the plaintiff.

The appellant found that members of Bombay Government, as many as seven (four Europeans and three Indians) whom he interviewed on the subject, although agreeing with his views, have not been willing to take any responsibility of co-operating with him in this project of India's freedom. Wrong practices develop in the working of Government, and Government members themselves become enslaved by them, and although the practices are injurious, they evade fighting against them. It is the privilege of the judiciary, which is expected to be fearless, to correct those

the British Parliament may have made or may make for India have no final authority, but the legality of those rules is subject to the contents of the original charters; finding on disputed points must be expressed by His Majesty's Judges in India. The Judges in India have complete jurisdiction even over statutory rules of Parliament when those rules affect India; much more, therefore, have they the right of deciding on Parliamentary practice about the governance of India. The chief object of the case is to free the Secretary of State for India from the control of the Parliament representing merely British interests. The plaintiff-appellant need not really make a statement of law and evidence at this stage of trial, but when acceptance of the plaint itself is the issue before the Court, the plaintiff is required to do something towards it. It is necessary to give to the judiciary as complete an idea of the entire case as possible, as judicial mind is generally unwilling to disturb current practices unless they find extremely important reasons. It is the desire of the plaintiff-appellant that the case should be tried in Courts in India and not in London as the First Class Subordinate Judge, Poona, suggests. The increase of prestige of the Courts in India is also an important object of the plaintiff-appellant.

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temporal and the Commons, and it is the privilege of the judiciary to see that all statutes are executed in accordance with law. Human institutions are frail, errors come in the expression, and the statutes conflict with each other, and it is the duty of His Majesty's judiciary to explain the exact application of each rule. Moreover, in the vast territories of His Majesty each territory has got its own judicial system, and a body of people who have the proximity of His Majesty are consulted as a matter of convenience, but they do not get the legal right of legislation for the territories that are distant. All persons, as well as bodies, have encroaching habits, specially when they are situated in proximity with power. The institution called the Parliament of England suffers from the same habit. It is the duty of the judiciary to declare whether any particular acts are encroachments or not when they are complained against.

The most prominent point which is required to be understood is the right of Parliament to govern India. The learned Subordinate Judge who originally had the privilege to try this case had appreciated the fact that I am denying the right of the British Parliament to govern India. The Judge in question did not dispute the contention, but disputed my method : that of appealing to the Court instead of to His Majesty directly by petition. The claim that is set up by Parliament of Great Britain regarding their power over India has not been examined at all. Parliament's sovereignty over India is spoken of in a loud voice by some simple-minded members of Parliament and kept uncontradicted by

practices and give Government and the country the necessary hope and courage. This duty or privilege of the judiciary was not understood and used by the lower Courts, possibly through the unwholesome fear of defendant, although it was pointed out in the first Court that the case is instituted to protect the defendant himself from the illegal encroachment of the British Parliament members' conclaves. The defendant, i.e. the Secretary of State for India, is to be saved from the effects of wrong practices that are made current by his predecessors. But to do the duty in a case like this requires that fearlessness which comes only from a thorough knowledge of the constitutional law, a thing which is not generally associated with Subordinate Judgeships, who had the privilege to try this case before the case came before the High Court.

The plaintiff-appellant claims to be a benefactor of the judiciary itself by bringing before the Court a constitutional case like this, which gives the required but rare opportunity to the Judiciary itself to clarify its own position. It gives an opportunity to judicial institutions to correct constitutional errors which arise in the working of the best governments. Practices grow up in a realm, which lead to injustice, and the judiciary corrects those errors when complained against. His Majesty's domains are everywhere on the surface of the globe, and the only power that is uniformly trusted all over His Majesty's dominions is His Majesty's judiciary. His Majesty issues orders and passes statutes with the consent of the Lords spiritual and

temporal and the Commons, and it is the privilege of the judiciary to see that all statutes are executed in accordance with law. Human institutions are frail, errors come in the expression, and the statutes conflict with each other, and it is the duty of His Majesty's judiciary to explain the exact application of each rule. Moreover, in the vast territories of His Majesty each territory has got its own judicial system, and a body of people who have the proximity of His Majesty are consulted as a matter of convenience, but they do not get the legal right of legislation for the territories that are distant. All persons, as well as bodies, have encroaching habits, specially when they are situated in proximity with power. The institution called the Parliament of England suffers from the same habit. It is the duty of the judiciary to declare whether any particular acts are encroachments or not when they are complained against.

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others. People in India, seeing that Parliament materially decides appointments and causes dismissal of their highest officials, have understood the power of Parliament, but have not examined the legality of the practice which gives the Houses of Parliament that power over Government of India. Politicians in England, being anxious to concentrate powers in their own hands, have naturally found lawyers who will maintain a thesis amplifying the power of the British Parliament, write books maintaining that thesis, and disciples coming out of British institutions take for granted what their masters have told them. Dicey, for example, maintains that Parliament has sovereign power over India. He has tried to prove that by quoting a decision of the Calcutta High Court, which challenged the legality of a certain Act of the Government of India as ultra vires because the Court held that that Act was not within the power given to the India Councils by Act of Parliament.

The way in which Dicey decides the question of sovereignty is clear. He tries to establish the sovereignty of the British Parliament over India, not on any assumption of Parliament, but on the decisions of the Indian judges, who, in his opinion, are the determinants of the law of India's sovereignty. To the extent that Indian judges are determinants of India's sovereignty Dicey's method is correct, but he is not correct in his inference. The learned writer forgot that the Judge of the Calcutta High Court in question was not making any commitment regarding the sovereignty of India, but merely on the limitations of the Council of the

Viceroy. When limitations are expressed on the power of the Council of the Viceroy it does not mean that that decision of the Court makes any commitment regarding where the final power rests. Much less does the decision clothe the Parliament of Britain with ultimate sovereign power. Authority is, as a matter of fact, exercised by Parliament over India. This authority has been exercised by the wrong practice of making one of the members of the Parliament of Britain as a Secretary of State for India. As that Secretary was chosen from Parliament by various Prime Ministers they continued to control him.

Thus it will be seen that the British Parliament has no inherent right to govern India. The East India Company was given the right to collect revenues and to do things necessary for usual administration; in fact, the powers of a Diwan by the so-called 'Diwani Charter'. The East India Company's internal constitution alone was subject to the control of the British Government, but its official duties were not so subject, just as the household, and not the official, duties of a man may continue to be governed by a man's father as long as he does not set up a separate household. The East India Company was a commercial body and committed many excesses for money. The legal authority against those excesses was the Emperor of Delhi, but the British Government, anxious to preserve their good name, assumed the control of the political affairs of the Company as the Company got ruling powers, so that the Company may be enabled to do proper service to the sovereigns and peoples of

India The Board of Control appointed by Parliament became the part of the internal Government of the Company with which India was not concerned India did not legally lose the right of governing herself on that account

When two countries are sovereignties united under one ruler the legal claims of each sovereignty must be a matter of minute investigation. The Judges appointed by the common sovereign have to do the duty of examining facts, and lay down rules of mutual relation when complaint purporting that one dominion is trespassing against the other is presented. In case the Judges fail to do this duty they give opportunity to discontent and rebellion and the severance of dominions which have been united under His Majesty. The Judge has to see whether the action of an officer is in conformity with the statute, and also whether the statute itself betrays any reason to be declared inoperative When sovereignties unite, the State within which the head of the State is dwelling gets no legal advantage merely by the fact of the head of the State dwelling there But such advantage is being taken in the country where the Emperor of India is staying, and it is taking advantage over India, and it is the object of the case to remove that evil

, The British Empire (the plaintiff has objection to t[illegible] term, and to him the definition of the word by British Parliament is no authority, but he is using the word for convenience) is a very complex growth and there are different laws of adherence. Of the various territories that have been united, some are united by

conquest, some by adoption of the Royal family of another State by England as their own, some by gift in marriage as a dowry to the ruler of England, and some in other ways. The law of adherence to England has to be laid down according to the circumstances of the case, and not according to the will of a Parliament of a country where the King happens to dwell. The British Parliament has not been averse to recognize that principle as a rule, and so far the task of the Court is easy, and there will be less opposition of the executive to administer the order of the Court. But even if the Parliamentary statute is contrary to the law of adherence the Court has to express law in spite of Parliament. The duty of Judges in India is to administer the law of India and not to assist the British Parliament to superpose their power on India.

For the present the Indian Judges are not asked to undertake the task of expressing against the rule of Parliament on the subject. If they give proper enforcement to the Act of 1919 the task will be accomplished. To explain this in detail it will be well to begin with quoting the first section and Part I of the second section of the said Act.

I

'The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King-Emperor of India, and all rights which, if the Government of India Act of 1858 had not been passed, might have been exercised by the East India Company in relation to any territories may be

exercised by and in the name of His Majesty as rights incidental to the Government of India.'

II

'Subject to the provisions of this Act the Secretary of State has and performs all such and like powers and duties relating to the Government or revenues of India and has all such or the like powers over all officers appointed or continued under this Act as if the Government of India Act of 1858 had not been passed might or should have been exercised or performed by the East India Company or by the Court of Directors or the Court of Proprietors of that Company either alone or by the direction of or with the sanction or approbation of the Commissioners for Affairs in India in relation to that Government or those revenues and officers and servants of that Company and also all such powers as might have been exercised by the said Commissioners alone.'

It should be noted that this Act of Parliament seeks to make rules in limited spheres and, in fact, admits limitations to their own authority. The King of Great Britain having become successor to the East India Company, Parliament is making the rules for the governance of the East India Company duties only. It is not claiming the right of sovereign legislation. It gives to the Crown the rights of the East India Company only, which were not the sovereign rights. The rights of His Majesty are those of a sovereign, whereas the Act concerns itself with the exercise of Diwani powers only, leaving India's sovereignty intact and undisturbed. 'The Act seems to continue the rights and duties of the

Commissioners for Affairs in India, and the privileges of the Court of Directors and Proprietors of the East India Company. In short, Parliament is trying to keep within certain limits, viz. of the Diwan's charter, in performing their legislative functions.

Whereas the Parliament of Britain has been so cautious in the legal expression the members of Parliament have not been so cautious. They have been abusing their power. In statutory expression the Parliament assumed very little power. In actuality the members of Parliament, by making combinations and by bringing to the position of the Secretary of State for India men who suited them and dismissing those who did not suit them, have made the sovereign Empire of India into a subject Government.

The device of keeping the Secretary of State for India as member of, and responsible to, Parliament was adopted by the British Government, not because they thought it right, but simply because the British Government was afraid that the Queen, with absolute power over India (as India had no popular constitution), may use powers and resources of the Company to destroy the liberties of British people. This was said quite plainly by the first Secretary of State for India on 29th April 1858, *i.e.* months before 1st November 1858, the date of the Queen's proclamation assuming sovereignty of India. But the original reason of the distrust of the sovereignty no longer exists. The practice complained of may have arisen out of the honest desire of guarding the liberties of British people. The practice ceased to be defensive and has

been continuously used by designing persons to exploit India. This chance for exploitation has to be discontinued if India means any improvement in the country's lot. This principle of constitutional correction has not been clearly understood, and all attempts for political reform were, therefore, misdirected. The intention of the Parliament as a body does not seem to be foul in the past. Parliament simply attempted to continue the two existing powers, viz. those of the East India Company and those of the Commissioners for Indian Affairs. The rights of Diwanship, which the East India Company had acquired in 1765, were regulated by Parliament by the Act of 1773, and in 1833 became vested in the Crown, and the Company remained only a trustee, and so the Commissioners of the King of England and the Company together were using certain powers and Parliament undertook to regulate only those powers. Parliament as a body has never claimed the sovereignty of India, although several of the members of that body are anxious to establish such a claim.

Value of an Act of Parliament for India.

An Act of Parliament means that to a particular act of the King of Great Britain the subjects there have assented. When Her Majesty Queen Victoria with the consent of Lords spiritual and temporal and the Commons undertook the sovereignty of India, it simply meant that people of Great Britain have expressed their willingness to the contents of the Act. A Crown taking up more responsibility may mean some loss to that country in having their ruler's attention divided, and so when

Her Majesty took over the sovereignty of India she took consent of Parliament. This consent of the British Houses of Parliament does not commit India in any way. It simply commits Great Britain. It does not give Britain or the British Parliament any privileges in India. It simply binds the British Government and not the Government of India. For example, when the Act of Parliament provides that the salary of the Secretary of State for India should be paid by the British Parliament, Parliament, and not the Government of India, are bound, and thus in asking the Court to declare rule about his salary nothing is asked contrary to the Act of Parliament, but it is not asking anything against law.

The injury arising to the plaintiff-appellant has already been briefly discussed in paras 8 to 11 of the original plaint. I have said that volumes can be written on the subject, because discontent and almost all evils of India, including Hindu-Mahommedan riots in Bombay, are due to that. How they are connected can be stated when asked.

The defendant, more correctly the wire-pullers below, is now projecting to get Parliament to abolish the existing statute which recognizes India as an Independent Empire, and is projecting to give us an inferior status, namely that of a Dominion, and is encouraging the giving to British Parliament a statutory right to interfere in affairs in India by 'Instrument of Instruction' and similar devices.

The plaintiff-appellant, therefore, prays that the trial of the case be ordered."

CHAPTER IX.

GOVERNMENT OF INDIA ACT OF 1935.

1. How the Act came about.

The authority of Parliament, which was sought to be removed by legal proceedings, and which Indian leaders were afraid even to object to, has been almost completely removed in the Act of 1935. The Government of India Act has not been a creation of very honest motives throughout on the part of the British Parliament. To get an Act to be passed by profiteers, removing their chances of profiteering, had become well-nigh an impossibility. Anti-Hindu feeling on the part of Lord Birkenhead had become sufficiently manifest. To keep up every chance for Parliament and Secretary of State to interfere in Indian affairs in the name of Indian minorities was an open game, of which various Indian cities and States, like :Kashmir and Alwar, were victims. A large number of Hindu Princes had become anxious, and leaders of minorities were in the ascendance. Under these circumstances, whether the writer's legal proceedings helped, the British ministers, or compelled them, to do what they did, is a matter which the public can judge by the evidence they may see. At present His Majesty's ministers ary very reticent in acknowledging any influence of the legal proceedings. Just as a debtor who knows that he owes money, at the same time is at a loss to know how he can pay it, generally tries to ignore the bills, dunning letters, lawyers' notices, and is unwilling to make any commitment by his own

communication, so did His Majesty's Government, and also the Speaker of the House of Commons, behave in this matter. That the Parliament's influence has been removed is a fact which will become patent more and more every day as time goes on. What came stealthily must also go away stealthily. The Parliament of a country proximate to His Majesty began to control all the offices of His Majesty's governments, without considering whether it was honest or just to control every office. The office of the Secretary of State for India, being often associated with the British Premiership, the control of India by a British Parliament was an improper, but a natural result—and this association started before the Queen assumed the regal authority in India i.e. in the days when the Secretary of State for India was no independent officer, but his functions were partly exercised by the President of the Board of Control of Indian Affairs, the President being the British Premier. Thus the power of Parliament over Indian matters crept in and the Secretary of State for India became a tool of British interests, scrupulous or unscrupulous. The power of Parliament was maintained in the last Act of 1919, not by any rule providing that Parliament's dictates shall be obeyed, but simply by stating that the Secretary of State for India shall not relax his authority over India without the consent of the British Parliament. Parliament, in their legal expression, never claimed sovereignty over India, but were content to make rules subsidiary to original charters given by Indian kings and potentates to the East India Company,

powers arising out of which were afterwards transferred to the Secretary of State for India Parliament's advocates, however, both lawyers and politicians, tried to expand the claims of Parliament in their books intended for falsifying the real position. Dicey's vagaries, which he so intelligently presented to his law-students while explaining the British constitution, as well as the harangues of politicians like Churchill, shouting about Parliament's sovereignty over India, will have to be dealt with later, as they no longer are obstacles in the way, but more or less words to be forgiven and forgotten

2 After almost complete removal of Parliament's authority what still remains in the hands of the Secretary of State is also being freed from Parliament's control

Let us now realize how the Parliament's authority is almost completely removed in India, and what authority does still remain with the Secretary of State for India, and how even that is getting freed from Parliament's control

The complete removal of authority in England can never take place as long as His Imperial Majesty chooses to stay in England, and so long some power will still vest in the Secretary of State It is at present greatly reduced by this Act This element in administration is bound to be variable, and so India must not rest until the authority of Parliament over him is completely removed It may not even be desirable that the sovereign powers should be com-

pletely vested in India, because it may mean dislocation in governing capacity of His Majesty's Government. All that we have to see is that the Secretary of State for India is not a tool of Britain and dishonest to his trust, as he was compelled to be all along. The course of action in future should be to bring about a practice or convention that the Secretary of State for India should be an Indian and not an Englishman, as an Englishman will never be able to identify himself completely with the Indian people. He will not be able to exercise the power of India in Colonial matters to India's advantage.

That the influence of the British Parliament over India's Secretary is waning is clear from the fact that now not a member of the House of Commons, but a British peer, who has no fear of being displaced from Parliament by the adverse vote of the people, is charged with that office, and the fact that the new election of 1935 did not cause his displacement shows clearly that he is becoming independent of Parliament. In future the Secretary of State will have very little authority of originating a measure. He has only the authority of revision, but the right of suggesting anything to the Government of India or Government of a province is not denied to him, and, although he is not likely to dictate any longer at the instance of Parliament, India has to be extremely cautious about him as long as he has any organic relation with the British Government.

3. Points to be noted in the new Act.

In the new Act the observer should note the following points :

1. All the power that was vested in the Secretary of State is transferred to India to be exercised either by the Federation or by the Provinces. Instead of suing the Secretary of State the people will henceforward sue the Federation or the Province in which they are situated.

2. The subjects which are deemed as legislative subjects, and are classed in the Federal Legislative List, include His Majesty's Naval, Military and Air Forces, and also works relating to all these branches of warfare; that means that not only the Indian Government, but the Indian people, are to regulate these matters.

3. Even the external affairs of India are not only independent, but to be controlled by the people's representatives. These include the implementing of treaties and agreements with other countries. Thus India will have to send out her own representatives abroad to negotiate with other countries, by whatever designation they may be called. The matter of interest to us is the power and not the designation.

4. Necessity for India's vigilance and assertiveness.

Regarding proper protection of India's interest it should be remembered that it materially depends on India's vigilance and assertiveness in these matters, which, the author hopes, will come about within the course of a few years. And inasmuch as treaties conflicting with those of Britain are unthinkable, and Indian interests in India will not permit to be sacrificed, India will have to assert itself in governing the relations of the combined empire of His Imperial

Majesty. India can at any time deny the right of Parliament to make law for India, and get a court decision on the subject if necessary. Notwithstanding the perfect practicability of it, it must be said that the necessity of such a measure will never arise if India at all remains vigilant to her interests.

5. What about the reserved powers of the Governors and of the Secretary of State ?

Much is made of the reserved powers of the Governors and of the Secretary of State, but if the political phenomena are properly analysed we shall see that their powers need not worry us.

It will be seen even from a general observation of the Federal Legislative Lists, exclusive and concurrent, that the powers of the Government of India are not at all compromised, and that the people's right to legislate on the subject has been acknowledged. It will be contended that the Indian legislature cannot do many important things. For example, they cannot pass any law contravening the provisions of the Army Act or Naval Discipline Act or the Act of Succession. But herein we must remember that the unity of the Empire is a matter of supreme consideration, and Parliament itself is restricted from passing any law which may cause disruption of His Majesty's Empire. This being so, Parliament could not give to India a right of separation, a right asked by the juvenile politician Mohandas Gandhi, because that right is not in their giving. It should also be remembered that Mr. Gandhi never asked for this right when opportunity was offered to him to express

himself in the Round Table Conference, but he talks of these things when he is away from His Majesty's ministers The Indian legislature is expected not to controvert the Parliamentary law of defence, and this must be deemed as reasonable as long as we entrust defence completely as His Majesty's duty and prerogative Whatever is provided in the existing British statutes should be deemed as essentially applicable to us in the matter of defence, but even there mater al changes can be made if the people of India will it, and press the point The Parliament has no right to make any law for India, and any Parliamentary clause that may be injurious to us will easily be conceded by the Br tish Parliament as inoperative, when they know that any vestige of power which Parliament may claim as right is likely to be challenged altogether

It is true that the Civil Service and general All-India services are still to be controlled by the Secretary of State But here it should be remembered that this unfortunate situation is of our own creation, and also that power will not be injurious to Indian interests if authority in India is wielded by real patriots Men like Gandhi and Jawaharlal and their clique began to bring about the reduction of every officer's salary to less than Rs 500, and under these conditions the services in India were frightened and wanted to protect themselves from a political change In all political changes it becomes necessary to protect the servants of the State from the rapacities of the successful political party Gandhi and his followers

were not known either for honesty or good management or sobriety. The frightened services saw that it was necessary to protect themselves even from the Governor and the Governor-General, whom they knew as officers who will have to yield to the people's representatives, and they therefore wanted their fates in the hands of a party at a distance, who can view their services in a detached manner We can hardly suppose that when Ministers and Governor find any public officer dishonest or incompetent, the latter will be shielded by the Secretary of State If the Secretary of State begins to behave in that manner, the *ministers, as trusted officers responsible to the* people, will be able to approach His Majesty and forbid the wrong doings of the recalcitrant minister

The deficiencies of the Act are many and some will be explained further in this book Others will be revealed in course of time But it should be remembered that we have a remedy to remove every deficiency It must be said that many persons who shout about the deficiencies have not properly realized the loss of Parliament's power and the results thereof Many persons are afraid to speak well about the Act, because they are afraid that such utterance may not suit the election purposes One retired minister of a Provincial Government once said to the writer, 'You, who are not in the field of practical politics, can afford to speak your own convictions We practical politicians cannot afford to have that luxury If we find that we have better chances of getting elected by saying that the reforms are un-

satisfactory we shall say that. If our chances are better by speaking to the contrary we shall change our tune accordingly." It is on account of facts like these, and also on account of the ignorance of the factor mentioned above, that they are still suspicious about the Governor's extraordinary powers.

CHAPTER X.

STATUTORY RESTRICTIONS TO THE POWER OF INDIAN LEGISLATURE.

1. Are the 'safeguards' really restrictions?

In the name of safeguards there has been an apparent restriction to the power of Indian legislature. These restrictions are expressed in the sections 32 and 34 of the Act. It is seriously to be doubted whether those restrictions are likely to be of any importance. Let us, therefore, see what those restrictions are. The restrictions are of two classes. There are some restrictions to voting only, but not to discussion on the subject, and there are some restrictions to both voting as well as to discussions. We have to consider whether there is any remedy to the people if there is any misuse of these restrictions on the part of the Governor-General. Voting and discussion are both prohibited regarding the salary and allowances of the Governor-General, also sums may be payable to His Majesty in respect of expenses incurred in discharging the functions of the Crown. These restrictions are, in the opinion of the author, healthy restrictions, as they will ensure the indepen-

dence of the Governor-General and save him from improper pestering. Moreover, inasmuch as the Royal expenditure in England rarely becomes a subject of discussion, it is but proper that the subject need not be a ground of public discussion here. It does not mean that if the expenditure becomes excessive the people are left without remedy. There is nothing to prevent the representatives of the people from submitting a note to His Majesty-in-Council if they think that the expenditure incurred by the Governor-General is excessive, and in case the wishes of the legislature are truly conveyed by the constituted authorities, such as ministers, there is no reason to suppose that the poople's wishes will be ignored by His Majesty-in-Council. If there is a majority in the legislature disapproving that expenditure it is certain that their wishes will be effective. If a majority do not disapprove of that expenditure even permission to discuss the matter publicly will be useless. Private conclaves always go on on all public questions of importance. Restriction to discussion will prevent only demagogy, and therefore indecorum in legislature, so likely to occur when the members of the legislature are drilled to offer meaningless opposition and ineffective non-co-operation merely with the object of annoying those who are in power.

2. Subjects which are non-votable but which may be discussed.

The following items are deemed as non-votable, but discussion on the subjects is not prevented.

(b) Debt charges for which Federation is liable.

(c) Salaries and allowances of Ministers, of Councillors and Financial Advisers, of the Advocate-General, of the Chief Commissioners and the Staff Financial Advisers.

(d) Salaries and pensions of the Judges of the Federal Court and of High Courts.

(e) Expenditure for the defence, external affairs, ecclesiastical affairs.

When one looks at this list one cannot but think that many of these restrictions are such as we would have created ourselves. For example, nobody will say that the salaries of the Judges should be a matter of party politics. The only objection to it is that this should be imposed by the British Parliament. But this objection is to the authority of the British Parliament itself, to which no politician in the field, whether Sapru, Shastri or Gandhi, has at all objected. The Debt Charges of India are to be paid if we intend to be honest, and if we wish that the word of the Government of India, which henceforth is to be conducted by our own men, should be trusted, and that Government should be able to raise money henceforward. This matter is kept open for discussion but not for vote. It will not prevent us from trying to raise a loan cheaper and making economies in the expenditure. The restriction was kept by Parliament simply because Indian Congress so glibly talked about repudiating all debts, and therefore, in the interest of those who bought Government loans, whether Indians or foreigners, it was necessary for the Secretary of State to have

some restrictions put to prevent the dissolution of the credit of India, which he and his predecessors have developed.

The non-votability of the salaries of ministers and financial advisers and other officers may become a subject of debate. In all these matters the chief objection is that people cannot pass a cut in the salaries when they disapprove of the person's conduct. Whether this restriction on the power of the legislature will materially affect the good conduct of the ministers, and their responsibility to the legislature, is a thing which must be seriously doubted. It is the author's opinion that the practice of proposing a cut in the salary may be useful to please a certain section of the legislature as a means of humiliating those who are in power, but does not benefit the State. This practice is being condemned throughout the world by many thinking publicists. If people disapprove of a minister they should see that he resigns; if they do not disapprove of his being in the office, but disapprove of a particular action, they can express their disapproval by communicating with him directly. Ministers are always keen to satisfy those who are their supporters and disapprove of a certain measure of theirs. In fact they are too much so. A prevention of reducing salary, therefore, will be useful to prevent politicians from pestering them, and this decrease of opportunity for constant annoyances will ensure solidarity of a party. This lack of opportunity for pestering is likely to be felt as a grievance by two classes of politicians in the legislature. Those who want to

produce spectacular effect without any special gain to the State or to the people are likely to be inconvenienced. These will be men in the opposition who may not have enough power to overthrow a party, but who may be able to enrol the sympathy of certain independents and also of some temporary malcontents from the minister's own following, whom the minister is unable to satisfy. It should also be noted that the legislature has full authority to determine the salary of ministers by Act (Sec. 10, sub. s. 3).

a legislative subject. The implementing of treaties with other countries is also made a legislative subject. There is nothing to prevent the people's representatives from appointing their own men to form a committee to report on the question of economy, and if their finding is not given adoption by the Governor-General they can send a representative to meet the Crown and to discuss the matters with His Majesty's British ministers, if necessary. Indian legislature can make rules asking that Indianization must go on at a rapid pace; they can appoint a commission for economy, they can demand that all military stores shall be manufactured in India. They can also advise the Governor-General that he should send out trade commissioners, if not ambassadors, to other countries, independent of Britain, but acting in collaboration in certain specific matters, protecting and advancing India's interests, and yet acting in collaboration with British representatives in matters of common interests.

There is a section (45) in the Act which empowers the Governor to suspend all the powers of the Federal body or authority. This power may be regarded as autocratic and as the worst 'safe-guard'. But, in fact, it will not be so. When the Congress people who, with their limited knowledge of securing what they want, and with no social or economic policy, or with no anxiety to bring about the public good, are led to obstructive and destructive tactics, the Government, in the interest of the public, must have a remedy, and this remedy is granted by the Act. Even now the talk of Congressmen proving the reforms as futile by

obstructive tactics is not lacking. It is not likely that that contingency when it may become necessary to enforce Section 45 will arise. The public will not have much patience with the destructive tactics of the Congressmen. Moreover it should be remembered that Congress was driven to advocate these tactics when they had despaired about Government and regarded it as beyond redemption. As long as the Secretary of State for India had all the power, and that power was at the mercy of British selfishness, the Government actually was beyond redemption. Now, the required correction being made, the representatives of the people will find Government perfectly amenable to their wishes, and thus the constitutional machinery is not likely to fail, and Section 45 is not likely to be put to use.

There are clear indications in the Act that the British Parliament has realized that they, by their rules, cannot really bind an Empire, and so the rules are likely to prove more or less of advisory, and not of obligatory, character. When they make a rule, and at the same time provide that its non-observance will not make the Act illegal, their attitude is clearly indicated.

4. Apparent restrictions kept to legislative powers are not real restrictions.

The restrictions which are apparently kept to the legislative powers are, when examined, no restrictions at all. The Section 108 tells that no bill which repeals any provisions of any Act of Parliament extending to British India can be introduced into the Indian legislature without the previous sanction of the

Governor-General, which he can give in his discretion, that means that the Governor-General has power to exercise his discretion as to whether any Act of Parliament extending to British India should be repealed by Indian legislature. This means that Parliament may legislate for India, but that the Governor-General and the Legislature have the right to cancel that legislation if they are pleased to do so, and that Parliament will not object to their doing so. The real obstacle to India's sovereignty is stated in sub-section (*a*) of the Section 110 in Part (i). Therein prohibition is laid down to make any law affecting the Sovereign or the Royal Family or the succession to the Crown. This prohibition is one which does not affect Indian independence in any way, but keeps the Empire together. That sub-section further restricts the Indian legislature's powers regarding making any law affecting the law of British Nationality. What that prohibition may mean is much to be doubted. If the Empire of India is not a British territory, as India has to assert, it has nothing to do really with the affecting of the law of British Nationality any more than the Indian legislature can affect the law of American citizenship. The same sub-section further expresses a prohibition to make any law affecting the Army Act, the Air Force Act, the Naval Discipline Act, or the Law of Prize or Prize-Court. But even in these it will be found that there is no restriction to India's independence, because, according to the sub-section (3), even those can be changed with the assent of His Majesty, and inasmuch as the defence and external

affairs are matters which belong to His Majesty exclusively, it is but in keeping with things that the legislature, until it is trusted with the defence of India, should not interfere in matters relating thereunto. Moreover in Section 105 the restrictions to the Government of India regarding the Naval Discipline Act are also discarded to a considerable extent. That section expects the federal legislature to make legislation for applying that Act to India if the federal legislature chooses to do so. Thus it will be seen that, although restrictions to legislature are written, they do not affect the powers of the Indian Empire, whose Governor-General is still free to depart from Parliamentary restrictions. When the Governor-General is free the legislature is free. The Governor-General's sanction is required merely as a matter of procedure.

5. Examination of the Act of 1935 for undesirable features.

Although the Acts of Parliament are deficient in their legal character as far as India is concerned, until Indian people resent that authority, and until the consequential desired end is produced, it is but to be expected that those acts will continue to operate. It is, therefore, necessary to understand the Act, and consider whether there is any objectionable feature therein, apart from the technically superior authority which the British Parliament claims, and Indian leaders refuse to deny. We should, therefore, begin by considering the Acts of Parliament together with the fractions of British legal system which the Act

refers to. Let us examine the references in the Government of India Act of 1935 for the purpose. The frequent reference to "His Majesty's pleasure" is embodied in the Act. We have nothing to contend with that, provided we are sure that it is really His Majesty's pleasure and not the pleasure of some other interested person. We shall have to consider that item in detail afterwards. The Act has a great variety of other obligatory items which are of common knowledge in Britain, but not in India, such as Royal Commission, Royal Warrant, and Orders-in-Council, which are supposed to emanate from His Majesty. There are rules regarding the manner in which appointments are made. The Governor-General and Provincial Governors are appointed by His Majesty by a 'Commission' under Royal sign manual (sec. 3(1) and 48 (1)) and the Commander-in-Chief is appointed by warrant under the Royal sign manual (Sec. 4). There is further on a reference to a Proclamation by His Majesty, and a precedent condition imposed is that each House of Parliament presents an address in behalf of Proclamation (Sec. 5). Further on (Sec. 11) the salaries of Councillors and conditions of their service are to be prescribed by Orders-in-Council.

The relation between the Federation and the Princes who become members is not completely trusted to Indian legislatures. The instrument of accession of a State to the Federation can be amended by the authority of Parliament, but that amendment shall not be binding on the ruler until he accepts it; and until he accepts it the power of the Federal authority arising

out of that amendment will not be extended to that State (Sec 6, sub -s 5) This control of the Parliament only over the terms of accession is to continue for twenty years, after which the Federal authority will be in power, and unless the Federal legislature presents an address that His Majesty may be pleased to admit the state into the Federation, recommendation to admit that state cannot be forwarded to His Majesty (Sec 6, sub s 7) When His Majesty accepts the instrument of accession copies of the instrument are to be laid before Parliament, but no address to Parliament is required It is not likely that this expectation of Parliament regarding knowledge of instrument of accession, or even the requirement of Parliament's consent to amendments to instrument of accession, will be the cause of any regret The Secretary of State is also to lay before Parliament the draft of Instruments of Instructions issued to the Governor-General and the provincial Governors, or of changes thereunto, and await the address of the Houses to His Majesty that the instrument may be issued (Sections 13 and 53) Regarding the law of election it is provided that in deciding what is offence, or corrupt or illegal practice regarding election, an Order-in Council and an Act of Federal Legislature are both applicable (Sec 26) The salary and allowances of the Governor-General and other expenditure relating to his office will be ordered by Order-in Council (Sec 33, sub s 3) When the Governor-General increases the period of an ordinance he is required to communicate to the Secretary of State and he shall lay it before Parliament (Sec 42) His Majesty

has power to disallow the Acts of the Federal legislature, and similarly the ordinances of the Governor-General can be revoked by His Majesty (Sec. 32. 3 and Sec. 42. 3). Similar is the case with the provincial acts (Sec. 77). Evidently the disallowance of His Majesty of an Act of Indian legislature is not a concern of Parliament, but of some other process. When the Governor-General is to make an 'Act' it is to be communicated to the Secretary of State and laid before both Houses of Parliament (Sec. 44). Similar is the case when the Governor-General assumes the power of Federal legislature or authority by Proclamation which he is allowed to issue (Sec. 45). If the Governor-General continues the government of a Federation for three years Proclamation shall cease to have any effect and then Parliament is to make such amendments to this Act as it may deem necessary to make (Sec. 45, 4). Similar rules are made to empower a Governor with similar restrictions when the usual constitutional machinery has failed (Sec. 93). Similar powers of legislation are given to the Governor and similar restrictions also are put (Sections 88 to 90). Excluded areas and partly excluded areas are to be governed by Order-in-Council, and the procedure laid down for the Order-in-Council is that the Secretary of State shall lay the draft of the order before Parliament. What those areas are is indeterminate, and at the pleasure of the executive they will change boundaries. Thus it will be seen that the Act has given ample room for the executive in India to be independent of the power of legislature, but it should be remembered

that it will be a natural reaction of the character of the form which Congress non-co-operation took, and under these conditions one cannot say that the restrictions kept to the power of Indian legislature have been unwise or tyrannical. The machinery of Government was to be freed from disturbing elements of two extremes, namely the unlawful power of conclaves in Parliament, who have been responsible for every abuse of Government's power, and from the undiscerning and unpolitical elements in the Indian legislature, that worked for breaking the constitutional machinery without trying to find out the ultimate cause. Thus the present Act has taken away the conclaves in Parliament as well as it has sought to defeat the actions of unintelligent and unpolitical representatives.

The Chief Commissioner Provinces, namely, British Baluchistan, Delhi, Ajmer-Merwara, Coorg, the Andaman and Nicobar Islands, and the area known as Panth Piploda are to be regarded as Commissioner Provinces. To these the Acts of Federal legislature shall not apply, but the power is given, not to His Majesty's Council, but to the Governor-General, to make laws and regulations (Sections 94 to 98). When the Federal legislature finds it necessary they are allowed to make laws for a province by proclamations of emergency, but in such case the power is given to Parliament to revoke that Proclamation. The legislative powers are thus restricted, not only by Orders-in-Council, but also by Parliamentary Acts, regarding which there will be more examination later on. These restrictions are given in Sections 108 to 110. It will be

shown that, although the restrictions exist, that does not in any way deprive India of its sovereignty or fail to give the required protection from Parliament's encroachments. Another restriction of British making to Indian independence is given in eleven sections (111 to 121). But these restrictions are more or less of the character of a treaty between India and Britain trying to establish reciprocity, and actually the desirability of convention between the United Kingdom and the Indian Empire is suggested in Section 118; and when convention on this subject is made an Order-in-Council issued with that object will cease to operate. How the contents of these sections are intended to bring about reciprocity, how they affect India, and what remedies India has, will be discussed in a sepa-

CHAPTER XI.

BRITISH POLITICIANS AND THEIR DIFFICULTIES.

1. The changed position of the Secretary of State.

The British Government, while passing the Act, had a delicate function to perform. They had to remove the Parliament's authority over India. Government could not do that bluntly. It was their intention to secure the substance without disturbing much the current conceptions, however wrong they may have been, and they have fairly succeeded in doing so.

also in America have that courage, but this courage comes to a man only when he carries the public trust with him, and as long as the Governors in Provinces will not be Indians by nationality, so long they will not have that courage If an Indian is raised to the position of Governorship on the advice of the ministers he may have the courage to veto honestly It is also just possible that very often the people of India may appreciate the honest vetoing on the part of the foreign Governor, if the Governor has already popularized himself, and when people look to him for a detached neutral decision regarding a point at issue If the Governor is intentionally causing splits in the members of the legislature in order to form a Government, that will go against the public interest, that is, the interest of the majority First of all, he will not succeed, and secondly, a frantic attempt to ignore the interest of the majority will be possible only if he has received instructions to that effect from the Secretary of State at the bidding of the British Government, a thing which is not very likely under normal conditions, and moreover, he will be exposing himself to the charge of ignoring His Majesty's Instruments of Instructions

2 Obstacles to control by Indian people

When we are considering the question of safeguards we should first of all distinguish between two different kinds of obstacles to control by Indian people Powers that are denied to the Government of India should be distinguished from powers of the Governor-General or the Governor Powers of the Governor always devolve

on his subordinates, ministers or secretaries, and they being in conference, and ministers being responsible to the people, the action of the Government is not likely to occur much contrary to the wishes of the people, if the Governor is not dictated to secretly by the Secretary of State for India, who may act as agent of British interests. It is for this reason that ministers must insist on discontinuance of correspondence directly by the Governor and the Governor-General. Indian ministers must acquire the habit of plain speaking, and must express in the name of the people the suspicions which they and their constituencies may feel about any secret correspondence between the Governor and the Secretary of State. Things which His Majesty is not at all likely to desire are likely to be matured in such secret correspondence, and that kind of thing will do harm to His Majesty's reputation.

The quarrel between the authority of Parliament and the administrations of India took, in the early days, the form of a quarrel between the Secretary of State and the Governor-General. In the Act of 1858 the Governor-General was empowered to bring forth any bill and get it passed in the Council, but the Secretary of State could cancel it if he wished. The Act of 1861 required that a Governor, before he introduced any bill in the Provincial Council, should have the consent of the Viceroy, but there is no reference to the consent of the Secretary of State for India.

In this Act we have to consider whether the Government of His Majesty has taken any precaution to maintain the unity of the Empire, and a control of the

Regarding the first influence the following points should be remembered. The Act gives the power of superintendence only. Whether the Secretary of State for India is likely to interfere in money matters, pushing his favourites, is a matter for us to consider seriously. The Act gives the following rules on the subject. The Governor-General will be under the general control of the Secretary of State (Sec. 14), but it is still provided that the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section. This control is to be exercised over matters where he is expected to act in his own discretion.

3. The Services and the Secretary of State.

Defence Services.

Regarding defence services there are Sections 232–239. They provide simply that the salary of the Commander-in-Chief shall be determined by His Majesty-in-Council (232). Appointments of a number of other officers also are to be made by the same authority (233), but in the further section it is provided that some other person may be authorized by His Majesty to grant commissions in any Naval, Military or Air Force raised in India (234). The Secretary of State may, acting in concurrence of his advisers, determine the conditions and rules of service of His Majesty's Forces raised in India. The further section gives the Secretary of State the right of receiving appeals. Whereas the Secretary of State is to decide the conditions of service Federation has to pay the bill.

It is this kind of authority that is likely to be abused, and therefore it is necessary for the Indian public to keep a vigilant eye on the forces that surround the Secretary of State. The abuse which was going on for the last three quarters of a century may arise again if the public is not vigilant.

4. Financial Management and Legislation.

The two further sections regarding the financial management of the Empire are given (136–180). In these rules revenues of the Federation and provinces are distinguished (136). Succession duties, stamp duties, terminal taxes, taxes on fares and freights are to be collected by Federation, but the proceeds of these are to be handed over to the provinces and States on certain conditions, but the Federation may import a surcharge for their own purposes (137). Very similar is the case of the taxes on income (138), but this does not include corporation tax. Corporation tax is not to be levied by Federation for ten years (139). One important provision regarding the income-tax is that the proportion to be distributed to the provinces in the case of taxes mentioned in Sec. 137 is to be fixed by Federal legislature, whereas portion of the income-tax proceeds are to be distributed among the States and provinces by His Majesty's Order-in-Council. The rule regarding division of income from Salt duties, Excise duties and Export duties is expressed in Sec. 140, and His Majesty's Order-in-Council is to determine the proportion. Rule 141 guards the interests of the Provincial Governments by requiring prior sanction of the Governor-General to bills affecting taxation in which Provinces are interest-

tion, his condition being that Government should respond properly to the projects and plans which Indian leaders may frame. The Liberal Party, who got a chance of working the constitution on account of the propaganda of non-co-operation, did their work well. A large number of schemes and ideas were set on foot, and reforms, like Indianisation of services, were commenced. The most important constructive work that was at all done after the inauguration of reforms in 1919 was done by this party. Some of their commencements, however, were left in the lurch, as there was nobody to pursue them. Legislature, ignorant and callous, came afterwards to occupy seats—to do nothing themselves and only resent what Government may do. Among the good things that were commenced then, but left in the lurch by succeeding representatives, is the Codification of Hindu Law, a project that was launched by a young non-Brahmin Poona member—Mr. Bagade.

of society and not from himself, and as such he would not have been able to make his mark as a statesman. This is what may be called the personal equation in the scheme of things he propounded. The other class which was against the reforms was the class of Englishmen in India, who wanted to show to people that not their votes, but the will of Englishmen themselves, are the determinant factors, and that the people's votes and desires will never amount to anything, howsoever enfranchised they may feel. Amongst such people the man who has the credit of demonstrating it in the most eloquent manner is General Dyer. He demonstrated more than anybody else how the Government power is used to defend a person, or set of persons, who commit crimes wholesale and still remain protected. When all that General Dyer had done was fresh in the memory of the people, Government, reserving the powers which they did, appeared to people only as retaining an opportunity for wholesale slaughter in order to achieve what they wanted or what they were ordered by the British Government to do. The question was whether Government will wilfully use the powers which they possess to the detriment of the country.

2. Forces working against the Montague-Chelmsford reforms; constructive work projected, but failed on account of Mr. Tilak's death.

In order to understand the present political situation in India, that is brought about by the political workers on one hand and by the Government on the other, it is necessary to follow the course of events

since 1919 When the new Montague-Chelmsford re forms were initiated there was certainly the intention on the part of the British Government to let the Indian mind commence constructive work, and with that view evidently the opportunities, such as partial responsibi lity of ministers, were given. There were, however, antagonistic forces working in the country to frustrate the idea Mr Tilak was perhaps the only man, out side the so-called 'Moderate' party, who appreciated the importance of using the opportunities for construc tive work, and he evidently set himself to achieve that idea He had three ideas in his mind (i) to plan a course of constructive action, (ii) to receive response of the Government therefor, and (iii) to make that plan of action as thoroughly representative of the country as possible, making it an official plan of Congress He therefore, called his party 'Congress Democratic' and his policy 'Responsive Co-operation' The policy was to co-operate with Government if Government shows response to the idea of Indian leadership In order to get the support of the whole country he wanted to convert the whole Congress into a party backing his idea Therefore he called his party the Congress Democratic Party—the best name he could have given to his party under the circumstances His object evidently was to increase the influence of democracy first in Congress and secondly in the country's gover nance His projects, however, could hardly have been appreciated by his clerkish successor, who had no courage, no idealism, no capacity for work and who quailed into insignificance after the death of Mr Tilak.

The parties who were unwilling to let the reforms work consisted of two groups. One group is the class of Government officers.

3. The Wrecking of the Reforms.

The civil services and other services were afraid that their privileged position would be lost, and were anxious to prove Indian incompetency. Among such persons there were evidently some Governors also. Sir George Lloyd managed the reforms-scheme so unintelligently that he actually wrecked the reforms in the Bombay Presidency. The credit and discredit of wrecking the reforms is given to the Swarajists' Party who, in the Central Provinces, did succeed in removing the Ministers by passing for them a salary of two rupees only. But the first wreckers of the reforms were the Governor and the Government services, who managed the thing in such a manner that they seemed to be seeking a kind of revenge on the public for getting some rights above them. They, therefore, made it impossible that the public should get anything at all by the New Constitution. They got their own salaries raised and starved all useful projects. In Bombay Presidency old educational institutions began to be closed, such as the Poona High School. The Deccan College was not closed at that time because some Europeans were directly involved, and they were protected by the Secretary of State for India, with whom they made a covenant of service. It was shown to the people that the newly-constituted Governments were unable to touch the salary of Europeans or men in All-India services. But they were competent to cut down

the salary of Indians only. Under these circumstances the idea of cutting down the salary of Government services was worked half-heartedly by the people's representatives. They felt that, if the salary of an Indian Minister is made considerably less than that of an Executive Councillor, the Indian Minister would have an inferiority complex during the tenure of his appointment and would not do anything during the time. The fact of the matter was that if the old constitution had been worked honestly by Government itself that constitution would have worked well. The blame lies not only with officers working in India, but the Secretary of State and the Parliament also deserve to be blamed. The policy was that of securing the interest of those in whom the Parliament are interested, and the securing of whose interest is contrary to the interests of the country. When the executives are not ordered from England there is no incentive for Government to act dishonestly. Under normal circumstances the Governor would have appointed to office only such executive councillors as will be acceptable to the legislature and who will be thinking of the good of India and

councillors not being so, the minister not only gets the inferiority complex, but he becomes interested in getting the government backing throughout for maintaining his place and salary. The only fear he has is that of court proceedings. It was contemplated in the White Paper that he should be immune from that fear, so that he can henceforward be courageously a traitor to the country. It is surprising that Indian politicians did not comment on this portion of the scheme, because those also projecting to secure these posts are interested in the security of the salary, and not in justice to the people. They probably thought that their status was raised and they were secured against public wrath. This security of ministers from legal proceedings simply means an additional evidence for the intention of the British Government to make ministers the tools of the Governor, whose actions are going to be entirely controlled by advice from England.

4. Self-betrayal of active British politicians.

It would thus be seen that in the framing of the new constitution a greater mischief was meant. But there is at least this advantage, that the Parliament of Britain, or rather the active British politicians, have completely betrayed themselves. They meant to give India a constitution by which minorities will be more privileged than before. They are to be so privileged in order that their assistance can be secured in robberies which Parliamentary members may contemplate, and nothing of any importance is to be left to the ministers. The number of ministers was to be increased without

their power, so that they can be set up against each other, and their power also is to be further diluted by increasing the number of voters and members of the legislative bodies All this betrays the intention of British politicians, and, when these facts are taken into account, the language about Britain's trust and Britain's responsibilities can be easily understood at its true value But whatever cleverness seems to have been projected appears to have given place to uprightness and honesty at the last moment, to whatever cause the change of attitude may be credited

To the question about the real intentions of Britain's politicians everyone will give the reply that mischief may have been meant, and it is, therefore, necessary to discontinue the power of the executive altogether. Gandhi took advantage of the opportunity, saying that not the present constitution, but complete Swaraj, is wanted People, not being thinkers, have no other choice but to say "Yes' or "No" to propositions that are put before them Gandhi wanted people in the Congress to vote for his proposals The people did so Mr Gandhi, moreover, promised Swaraj within a year The writer does not suppose he meant it

5. Mr. Gandhi's publicity and public faith in him.

With reference to Mr. Gandhi's publicity and public faith in him the following facts must be understood. It is wrong to suppose that the people of India made him a saint. They never did so. If Gandhi had achieved sainthood through Indian appreciation we would have found some intervening period of slow growth of respect, and some epithets showing how he grew in public estimation. But Gandhi never had such a rise. He was given a saintly character by Christian missionaries. The epithet of which Christian missionaries made a free use was translated by Indians as 'Mahatma'. Gandhi thus owes his greatness, not to Indian appreciation, but to British appreciation, and he is himself perfectly aware of this fact. Gandhi was called 'saint' by Christian missionaries because he was calling Christ his master—a statement which appealed to them so much. When a man remains Hindu and praises Christ greatly that seems to touch the hearts of Christian missionaries in a very peculiar way. Sir Narayan Chandavarkar had discovered the possibilities of this before Gandhi. The writer has seen, in American journals, expressions amounting to making Sir Narayan also a saint. Whether he was a saint otherwise is a matter so well-known to the people of India who followed his career throughout that this point hardly deserves any discussion. Suffice it to say that Gandhi was made a saint by Christian missionaries, and the word 'saint' was translated in journals in Indian vernaculars by the word 'Mahatma'. Gandhi never forgot who raised him. He knew that a great

deal of the attitude in vernacular papers is but the reflection of what appears in English, and what Europeans think and say is of more value because Indians would repeat what Europeans have said, and on that account he has been contemptuous to the representatives of Indian journals, even of those published in English and edited by Congress funds. But he has been extremely anxious to meet the representatives of the *Times of India* or Associated Press This fact has been freely expressed by European papers, and resentingly admitted by Indian papers. People are quick to realize what Indian leader is taken up by Government, or to whom greatest regard was shown. Mr Gandhi was thus a creature entirely of the European regard shown to him by Government and Christian missionaries. In order to understand the mentality of Gandhi it is but necessary to make a digression interpreting his career.

CHAPTER XIII.

MR. GANDHI'S SHARE IN DEFEATING REFORMS FOR INDIA'S SELF-ASSERTION.

1. Hopes raised by Mr Gandhi at the beginning of his activities in South Africa were not realized.

protested about it as early as 1840. There had been unpleasant correspondence between the Colonial Office and India Office regarding Indians in South Africa, Mauritius, British Guiana, Trinidad and Fiji. When a man of legal profession like Mr. Gandhi went to Africa to practise, that fact was welcomed by both governments, as it was felt that he would try to better the conditions of his people and assert their claims in a proper constitutional manner. For a time it seemed that there was a great likelihood of this being realized, but Mr. Gandhi's desire, other than that of seeking the amelioration of his people, disturbed the normal course of development. His strange sacerdotal ambitions must have come in the way. Persons who happened to be friendly to Mr. Gandhi during his stay in Bombay say that he used to tell them that he feels more at home with English people than with Indians. He felt more easy with English women and girls than he felt with Indians. The present writer has heard this statement from more than one person, and is personally prepared to believe it. The social restraints in olden days were so many that many persons felt that they breathe freer air in England than in India. When it was possible to get acquainted with English ladies of middle class, to get acquainted with Indian ladies, even of one's own caste, was difficult. When Mr. Gandhi went to South Africa he found himself shunned by South Africans of European race, and was required to mix with dark people only. Mr. Gandhi felt himself excommunicated. Under these circumstances the only European class where he was

received well was that of missionaries. He used to hob-nob with them, and it seems that they materially influenced his life. He began to praise Christ, and they began to praise him. He began to approximate his conduct to missionary expectations, and the desire of receiving their praise so much influenced his life that he became what he became by that. The poison of the praise of strangers affected his life to the detriment of his people. He became, therefore, a dishonest leader of Indian people, the writer meaning, by dishonesty, having a desire in one's mind other than that of the success of the task one has undertaken. Even if a person has a desire of maintaining the friendship, and earning the good opinion, of the people he is contending against, he becomes dishonest to his charge. Gandhi's desire of being dubbed as a saint has spoiled the cause which he espoused several times, although he temporarily got praise from a section of the adversary community. Gandhi, in his South African political work, was a complete failure, and the people in South Africa say that he made the condition of Indians worse than before. Inasmuch as Gandhi was helped a great deal in his work by the Government of India, he had a good opinion about the British Government, and he even explained to one Governor of Bombay the difference of that character between him and Mr. Tilak.

the only Hindu who was trusted by a section of Mahommedans. In South Africa he had to be a leader of Hindus and Mahommedans together, and so he had some Mahommedan friends and supporters. Thus to be a Hindu, but agreeable to Mahommedans, was a great asset in leadership. Another advantage he had was that he was perhaps the only professional politician. He lived on politics and on subscriptions collected for political or social work. He knew how and from where to get money. Even before he came to India he had collected moneys in Burma, and in large amounts, professing to do social and educational work. At the close of the war money was cheap. Any project could get money, and at that time Mr. Gandhi kept his eyes open for the securing of funds.

3. The Tilak Congress Swaraj Fund was started by Mr. Gandhi after the death of Mr. Tilak.

After the death of Mr. Tilak he formed the plan of securing large funds for political purposes. It was called 'The Tilak Congress Swaraj Fund.' All of these were catchwords. He collected large funds amounting to over one crore of rupees and has shown some humbugging account. The present writer is credibly informed that an amount of over some thirty lakhs still exists. He feels reticent to write more about the matter for he is afraid that this question will have to be discussed some day in the law courts.

Mr. Gandhi's method was to show some far-fetched connection between his project and

and thus to use the amount to feed his professional admirers and disciples. When a matter of really serious character would come he would shun the duty on some pretext or other. As Gandhi had been instrumental in collecting so large a fund his influence was unbounded. His methods need not be discussed now. Suffice it to say that he successfully prevented the Indian public from applying their mind to constructive work. It is for this reason that men like the Hon. Mr. G. S. Khaperday used to think he was a Government agent or spy. A spy he could not be, but he certainly became a tool of those who

CHAPTER XIV.

PARASITES OF UNCONSTITUTIONAL POWER.

1. Beginnings of offical introduction of everything British into India.

The East India Company, which was Diwan of Bengal, Bihar and Orissa for the Emperor of Delhi, and also Peshwas for the Maharaja of Satara, was itself controlled in England by the British Government. It yielded its place to the Secretary of State in whom all the powers of the ministers of Delhi and Satara became concentrated, and His Majesty's Secretary of State for India, slowly coming under the control of the British Parliament, and of the British public at large, a large number of parasites, depending for their existence on the unconstitutional power, began to prey upon India. Because Diwanship passed to a British personage it did not mean that the whole of Britain was to rule India, but the Emperor and Empress of India remaining inactive, and kept away from the people of India by the cleverness of the British ministry, the unconstitutional power, i. e. improper influences that acted on the Secretary of State, became enlarged, and as they were seeking auxiliaries in India everything British began to be introduced into India under official encouragement. Christianity was introduced, greater vigour and teaching of Christian missionaries were introduced. The idea that a section of the Indian people should be estranged from the rest, so that they will be strong supporters of British

rule, by the introduction of Christianity is an idea finding its place in official documents, but that some official documents were systematically suppressed afterwards by public expression that British people did not try to introduce Christianity into India like the fantastic Portuguese is a fact But this difference cannot be ascribed entirely to the existence of fanaticism in the Portuguese and its absence in the British In fact, as far as missionary tendencies are concerned, and accomplishments of pious frauds, the early Christain missionaries in the early British period can hardly be distinguished from their Portuguese contemporaries

2 The much-vaunted 'religious neutrality' was not the result of liberality, but of the fact that the East India Company was only a servant

torture, but by more underhand dealings, which a ministerial or clerkish power generally tries to accomplish. Even the Portuguese power, if they were simply Diwans of a Hindu or Mahommedan monarch, would never have dared to introduce the Inquisition into India. The task before the British Diwans of Hindu and Mahommedan monarchs was primarily how to increase their power and wealth without exposing themselves to a multiplicity of charges by their Hindu and Mahommedan monarchs, and it is that situation which produced the religious neutrality which the British boast of. Not only did the East India Company abstain from religious propaganda, but they had to prohibit propaganda of Christianity, which was a necessary result, not of their liberality, but of being servants.

3. When the British Crown assumed the sovereignty of India changes began to take place.

Since the British Crown assumed the sovereignty of India, things began to change. The prohibition to propaganda of Christianity and disabilities to Christians began to be slowly abolished, and definite attempts of anglicizing India were made, of which the introduction of British education and Christianity are the products. The Hindu, who used to regard the drinking of wine and the slaughter of animals as wrong, and people having these practices as inferior to himself, was to be taught that the above two things are quite alright, and his law or religion which prohibits these is wrong. Naturally penance or some amercements for visiting England and staying among English people and taking up their

manners and food was to be taught as a wrong religion of superstition, and the Indian social reformers made that a creed of theirs In the Deccan the class of social reformers was regarded as the auxiliaries of British power, and therefore a class whom a patriot was bound to despise Auxiliary as this class was of an unconstitutional and dishonest power, this class was fated to die and is dead to day But the Shudra-hood of this unconstitutional power still continues Its present supporter is the unfortunate Mohandas Gandhi, who became merely a tool for the perpetration of those things which Britishism would like to be brought about in India

4 Evils arising out of the unconstitutional power over India Extract from author's notice to the British Parliament

As the unconstitutional power of British interest, acting through the British Parliament first and through the Secretary of State for India afterwards, has been demolished, all the evils arising out of it will no longer be there Evils arising out of this unconstitutional power were dishonesty and trickery in Government, furtherance of British interests in India at the expense of the Indian people, and seeking alliance in India by Government of minorities, and by other elements of disturbance which will terrorize the population, and trickery in the working of constitutional reforms Inasmuch as all these were necessary results of the unconstitutional power of the British Parliament, they will all disappear with the disappearance of Parliament s power What was happening is described in

paragraphs 13 to 18 (quoted below) of the author's notice to the British Parliament :—

"**Evils arising out of this Control.**

Parliament of Great Britain having no right to govern India, control by conclaves and rings in Parliament over the Secretary of State for India is wrong. This control leads to injustice to people, arrests development of India, makes Indians believe that they have no opportunity of self-betterment, puts patriotism at a discount, makes people regard the government placed over them as their standing enemy, and promotes feelings of anarchy in the country. The ultimate cause of all these is the unjust, illegal control of Parliament members over the Secretary of State for India. When the Secretary of State has to work under these difficulties merely to retain his office, it is impossible that he can give to the affairs of India the amount of attention which they require. He has to please supporters of the party in power, in and out of Parliament, which cannot be pleased merely by good government of India, or angered by bad government. Parliament's support becomes conditioned by the advantages which some members can get for themselves. As these supporters can make their displeasure effective, the Secretary of State for India has to manage Indian affairs in such a way that the Indian voice and Indian councils will be successfully made ineffective against him. Since he has to be responsible to members of Parliament who have no right to exercise control, but who can injure him, his subordinates also cannot be responsible to the Indian people. Subordinate attention becomes absorbed

in pleasing the Secretary of State and in carrying out his orders and policy, and thus Government of India and provincial governments are required to be busy in finding ways and means of defeating the objects of Indian legislatures to whom they are bound to respond, if any moral principles are at all to be observed.

Trickery in forging constitutional 'reforms'.

Now an effort for reform in Indian constitution is being made. In fact this effort is going on for several decades with very little improvement in the fate of Indian people, and the reason is the lack of thorough-going bonafide effort. The majority of you are inattentive to what the designing minority are doing. When the real intention of politicians is not to part with power which Parliament has acquired through error or historical accidents, and when that power was found so useful by politicians to advance their selfish ends, and, therefore, greatly manipulated and increased by trickery, it is only to be expected that when the people of India clamour, only some semblance of power is given by statutory rules and additional trickery is resorted to in framing the wording of the statute to frustrate it. When legislative power is given by creating councils, attempt is made at the same time to make the power of Indian councils null and void. Trickery is used by every government. The apparent perpetrators of tricks are members of governments in India, but the real perpetrators are amongst you, remote from, and therefore out of sight of, the people of India. This trickery is really a result of lack of independence of the Secretary of State for India against the designing men

amongst you. The Secretary of State is required to become a trickster, in order to carry out their wishes, and makes the provincial governments still greater tricksters. When the burden of carrying out the policy of the Secretary of State, and of persons influencing him who themselves remain in the dark, falls on the provincial and federal governments' officers, they have to find out ways and means to defeat the wishes of people represented in the councils. They accomplish their unpleasant and odious functions with such wits as they possess. Tricks, which the subordinate governments have to practise, cannot but cause loss of faith in the honesty of the government which, from the Secretary of State for India down to a policeman on the street, have become scapegoats as they really are, a helpless hierarchy, in the hands of masters unseen, unscrupulous and not known to law, and thus the hierarchy has become absolutely unable to render proper service to India. When British ministers perform any action regarding Great Britain they can frankly say they did that because their constituencies wanted it; but can the Secretary of State for India frankly say that he used the revenues of India for the particular purpose because people of Great Britain wanted it? As he feels shy to say such a truth, he has to make a show that India wanted it, and thus hypocrisy begins with His Majesty's minister, and the entire British Government participates in this hypocrisy. It is bound to develop in character and variety and corrupt every phase of political life. While this error, if not fraud, is continuing in the working, Government will not be

able to act otherwise than it is acting, and the Secretary of State will continue to be a tool of unscrupulous persons in and outside Parliament, and India will continue to be cheated.

Who is benefited by wrong practices.

I need hardly impress upon you the fact that, although advantage of the peculiar evil influence over the Secretary of State is reaped by only a few people in Great Britain, the whole of India, as well as Great Britain, suffers thereby. Great Britain's Government, by the continuance of this practice, becomes branded by dishonesty. Thus the imaginary power, which the Parliament is supposed to possess, serves neither the purpose of all members of Parliament nor of the country at large, but of some definite group of men who want to make money by unfair means and therefore mar the entire progress of India and permanently injure the cause of Britain in India. It is on account of the presence of that group in Parliament that I shall be required to have legal proceedings against you in the interest of my country.

Please do not consider that, as there are many members who take interest in Indian affairs, you need not take any. It is necessary to take interest now once for all and only to discontinue the wrong you are doing. The people who have been taking interest have been mostly men who do so only to grind their own axes, except a few humanitarians. I ask you to discontinue trusting others in this matter, and to look into the facts for yourself. It is the lethargy of the many that gives to the few an opportunity to do wrong and to use the

entire power of the country to support that wrong. Even the reforms which are contemplated are not at all to be trusted, because the people who are forging the constitution are not free from wrong influences. Contemplated new devices, such as 'instrument of instructions', will give direct opportunity to Parliament politicians to disturb Indian administration, setting up one class against another.

Are you increasing democracy or are you increasing tools of the Secretary of State for India?

As more 'reforms' are contemplated in order to democratize, for the sake of show, the machine of government, *it is my duty to point out to you that*, when you do not carry out the radical reform of freeing the Secretary of State from evil control, every step towards democracy will serve to increase social conflict and the Secretary of State will act as the promoting agent of that conflict. When the people of India had no voice, control by Parliament over the affairs of the actions of the Secretary of State may have been useful, but when the people were given some voice, keeping the Secretary of State responsible to cliques in Parliament has become the most important source of social disturbance. While Parliament keeps the Secretary of State for India responsible to themselves, and while Government of India are bound to carry out his mandates, it is impossible for Government of India or Government of any of the provinces in India to be responsible to the people of India in any way. In order to satisfy men in Parliament who want to influence Indian provincial and federal governments through the Secretary of State

for India, the government servants in India are required to do the dirty work and have to take the blame from the people of India. They have to get the legislature to do what the unrecognized masters of the Secretary of State want. They have to cause splits in the legislatures and draw sections in them towards government. Thus government servants are required to foster feelings of friendship and antagonism among the council members first, and among the general population afterwards. If a particular section feels that it is privileged on account of friendship of the government, it starts aggrandizing itself over others, and causing public disturbance. Increase of seats in the legislature under these conditions means an addition to the number of people whom the Secretary of State is to use as tools and therefore an increase of social conflict. Merely in order to carry out the wishes of other people than the people of India, the Secretary of State, and vice-regal and provincial governments under him, are bound to set up one class against another to secure the required majority, so that the huge joke of democracy can be maintained, and the Secretary of State is required to condemn methods adopted by the local government, to secure majority for government. 'Rally round Moderates' was the cry of Lord Morley, and the idea of carrying on the government relying on the support of Mahommedans has become the working principle of a large number of persons connected with the governments in India. Politicians in England also have not been behind in fostering such policy. The Mahommedan minority has been frightened by the seekers of wrongful advan-

tage, and it is they who stimulated the feeling which caused the riots and bloodshed in years 1930, 1931, 1932 in cities like Bombay, Benares and Cawnpore. All that is a result of the illegal and wrongful control of Parliament over the Secretary of State for India. Thus the acts of Parliament members themselves being the ultimate cause of disturbances in India, it is not to be wondered at if some members of Parliament become busy in throwing blame on Indian people in order to delay the cause of constitutional reform.

Demoralisation of Services.

As members of the services are required to be tools of unscrupulous men amongst you, the services also are getting demoralized. When servants of State are ordered to trick the people by bringing into play this artificial majority and are required to do many things against their conscience as a matter of duty, it is not to be wondered at if they are not behind in using that artificial majority to seek their own personal ends. They are induced to enrich their own pockets, whether the country prospers or goes the other way.

Wrong principles in selecting the Secretary of State for India.

By keeping up the practice of selecting one of the members of Parliament, you are practically denying to the Indian Empire a Secretary of State who has the proper knowledge of India necessary for its effective advancement. In Britain you are choosing as Secretaries of State your own accredited representatives, but you are observing a contrary principle here. You are doing worse than this. You are deny-

ing to the people of India the right of becoming a Secretary of their own empire for His Majesty, and giving the right to somebody who has no concern with India and who has obligations to non-Indian people. You are doing still worse. By putting in a man entirely ignorant of the rights of Indian Sovereignty, you are compromising the rights of the Sovereignty of India not only in England, but also in India. On this matter a separate note will be sent to those who are curious about the subject. Suffice it to say that many persons passing as Princes are really hereditary servants of the empire and it is wrong to treat them as Sovereignties, when they are really subjects."

5. Attitude towards languages of minorities.

Influences of the unconstitutional powers on the ministries became various. The minorities themselves began to feel privileged. They were wanted to support the Government of India, which is really no autocracy at all, as it is supposed to be, but only a slave of British interests. What was to be accomplished by Government was to be supported by minorities, whose importance was to be magnified by Government. Large minorities could create public disturbance and give the required handle for the Government. There was a definite attempt to sever Mahommedans from Hindus by a special programme of Mahommedan education and by encouraging Pan-Islamism. Mahommedans in Maharashtra and Karnatak have all along

poetry in Gujerati, Marathi, Kanarese and Tamil and Telugu also; but now throughout, Mahommedans are slowly being divorced from these languages by the creation of special schools for them, telling them that their language is Urdu, with the object of severing them from Hindu interests. This objective is given a great deal of motion, and it is likely that separatist character, introduced by the agency of British interests, may continue for some time, but it is bound to disappear in the ultimate future, when Mahommedans and Hindus will be looking to each other for the formation of a common policy, and not to the Britishers for favours, as they are doing now. Despising the Hindu became the characteristic of all auxiliaries of British rule. The Goans want to pretend that Portuguese, and not Konkani, is their language, and East Indians and Goans both want to denationalize themselves completely in, at least, outward appearance. East Indians (Marathi Christians in Northern Konkan) in Bombay present a very peculiar spectacle. They pretend that their language is either Portuguese or English, refuse to teach their children in Marathi, try to suppress the sari in women and introduce dresses, and yet observe the caste system so rigidly that the Kunbi family cannot marry with the Wadwal family in Bombay, although they look much alike to an outsider and the kinsmen of both follow agricultural occupation in Salsette Island. The Indian Christians, especially Catholics, want to obliterate their native character. The Goans, if they want to use Konkani at all,

became partisans of non-advanced Indian languages in Indian Universities. All these people will have to turn their 'pugri' and will have to say that they have always been pro-vernaculars.

CHAPTER XV.

THE PRESENT TIMES IN THEIR HISTORICAL SETTING.

1. Truly critical examination of the facts essential for profitable understanding.

In order to plan the social and political policy it is necessary to understand the present times in their proper historical setting. If we find the present times worse than the past times it will be necessary for us to set the clock backward. If we find that the course of history has been detrimental to India we will have to plan to see whether we can reverse what has occurred. If we find that such reversion is impossible, we should find out why it is impossible. The fact is that the verdict of history is very often only too correct, and wrong interpretation of history will cause nothing but mischief. Things which failed failed because they were lacking in strength. Politics displaced are displaced by stronger politics which are more beneficial to man, and if India gets a stronger government than the Government of the Mogul or Peshwa the stronger government has really been beneficial to the country. When revolutions occurred in the olden times the people at large were generally indifferent. People at large generally did not care as to what dynasty ruled.

use it entirely in a metamorphic form. They use Roman characters and introduce a large Portuguese vocabulary. This is a creation, not of British India, but of Portuguese India, but is fostered even in Bombay where there are a large number of Goans who prefer to transform Konkani, which is really a dialect of Marathi, instead of learning Marathi itself, which is the language of the majority in Bombay, but which they despise as they want to keep away from the native type as far as possible. The Parsi, who perhaps has been the greatest beneficiary of the foreign control, naturally desires to suppress his Indian character as much as possible, and inasmuch as it is extremely difficult to change one's language, he, being required to get along with Gujerati, has created a new dialect of Gujerati called Parsi-Gujerati. Wherever it is not possible to take to another language the minorities try to differentiate from Hindus by creating separate literary dialects for themselves. This rule is exemplified in Luso-Konkani, Parsi-Gujerati and Mussalmani-Bengali. All these dialects, which are based on contempt of Hindus, are bound to die sooner or later as the ulterior objective, viz. pleasing the British masters, will not be possible as there will not be the British power on the spot to foster their discord. Another concomitant of the unconstitutional power of Britishers in India has been that in each province strangers from other provinces were welcomed in the services and in trades and professions that grew under official patronage. These persons became useful for the suppression of local culture. They all

became partisans of non-advanced Indian languages in Indian Universities. All these people will have to turn their 'pugri' and will have to say that they have always been pro-vernaculars.

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India was not unacquainted with democratic form of government. A kingdom, when the territory was enlarged, led to the creation of an Empire, but it created no new problems; but a democracy, winning victories over other people and bringing them to subjection, is a phenomenon not prominently known in India, and so the transformation of a republic into a monarchy or empire by the growth of subjected dominions is a phenomenon Indian history did not witness. The City States, when they passed under the empire, preserved their constitution intact, and the Emperor was content to be the overlord of City States and little republics and feudatories. Under one large empire all political phenomena prospered. India always welcomed the idea of a paramount power which will give peace to smaller states from aggression by the bigger ones. With the growth of all-pervading law India developed a high sense of constitutionalism unknown to Europe. Factors of Indian constitutionalism are partly explained in this book.

2. Wrong lead given to Indian political activities by Englishmen.

To Indian political activities the lead was given by Englishmen, and they gave a wrong lead. Their lead was wrong because they simply considered India's adherence to British policy as their own development, and so they applied to it their own traditional experience. Britain had colonies. Regarding colonies they had some objectionable policy which they altered after their American experience. Regarding their colonial management they had different schools of thought,

which survived even after the severance of the American colonies from Britain. One group said they lost America because American demands were not granted. Another group said America rebelled, and rebelled successfully, because they were already given too much self-government. To India they applied the colonial thought, and the same schools of thought regarding India came to exist in England, and began to work in India. In India the continuity of old statesmanship was broken because English-educated men rose to political power, and they had learnt their political philosophy from English masters, which they repeated. The language of 'colony' and 'mother-country' began to be used by Indians also. Throughout India political consciousness was inherited by only two groups, viz. Mahommedans and Maratha Brahmins. To the rest of India political life was rather a novelty. So they, having nothing of their own to lose, took to British teachings exclusively. When they wanted something different from British they took to French or Russian teachings. Congress teachings became their sole guide. A different attitude towards self-assertion was expected from Mahommedans and Marathas. Mahommedans did not become producers of a distinct political philosophy for India's advantage. The Mahommedans, however, could not do so because of their numerical minority of which advantage was taken by the British.

One cannot say that the British people are deliberately mismanaging the affairs of His Majesty. At the same time the statesmen cannot be entirely excused. The statesmen know what they are doing. They know

that they are mismanaging the affairs of another country, and abusing their 'trust' which they so glibly speak about. When, for example, an Indo-British Pact was recently concluded between the Government of India and representatives of Britain, they concluded this pact without the Indian Government consulting the most important Indian interests. The Government of India is not allowed an independent voice. When the Government of India are to carry out what is communicated to them as His Majesty's wish through the Secretary of State, and the Secretary of State himself is a creature of British interests, a pact between the two countries is nothing but a creation of Britain exclusively. The person outraged by this impertinent dishonesty is the Emperor, in whose name the Secretary of State issues mandates to the Indian Government. The Secretary of State himself, being a helpless person, threatened on one hand by the loss of office, egged to

under some pretext or another, especially on the ground of jurisdiction.

3. India herself must now formulate the political science which is to govern her affairs.

The political science that is to govern the conduct of the Empire's business is yet to be framed. India has to contribute materially to its formation. India has trusted British intellect so far, but, having had bad experience, it can afford to do so no longer. British efforts have failed miserably. The schemes which they prepare for India's governance are not at all likely to be accepted by the people of India. Everything that is occurring is leading the country to its ultimate goal, namely, independence and self-determination, although going towards self-determination it is faltering and timid. The Congress may not have made its self-assertion scientifically, as the Congress leaders have not been persons of independent thought, but mere disciples of British teachings. The last generation, having been taught the doctrine of the supremacy of Parliament through British text-books, modern Indians have been believing in that. Motives of personal gain also come in the way of honest expression contrary to British teachings. An Indian writer, who would have the courage to deny any thesis like the supremacy of the British Parliament, was hardly likely to have his books adopted for use in schools and colleges, and so an Indian 'constitutional lawyer' begins to repeat what English texts tell him. The British Parliament has been legislating for India, and its members have been governing the appointment and the conduct of the

Secretary of State for India. When a publicist thinks of writing on Indian administration he does not see beyond present facts and British teachings and naturally repeats what he learns from British writers

CHAPTER XVI.

OUR POLICY IN FUTURE.

1. Necessity for close co-operation of the ruler and the ruled.

The present Act of British Parliament is a result of two forces primarily in the Parliament itself. The selfishness of Britain was active and was deciding the 'law' for India to suit their exactions. They were setting up minorities in India against the majority, and were trying to reserve the authority in India especially.

regrettable incidents which came about as the result of Government strategy. People felt that their loyalty and their sentiments for the Royal Family were being exploited by the Government, who wanted to make a show of the people's contented condition, while in fact the people had become angry with them and had lost faith in them. That faith has never again been re-established. The present writer does not think that it will ever be completely established unless the practice of giving the office of the Secretary of State for India to a member of the British Parliament is permanently discontinued. It should be given to a person of distinguished service in India, preferably to an Indian.

2. **Suggestions regarding personal contact of Rajas, Maharajas and Nizams with His Majesty.**

It will be well for His Majesty to establish closer relationship with the families of Rajas, Maharajas and Nizams, so that many young men from their families can be selected to hold important offices of the Crown. Aristocracy with no function for them in the Empire is bound to degenerate. His Majesty will do well if he insists that the rulers pay a visit to England and maintain personal contact with him, so that they may be able to enjoy his confidence, as well as profit by his guidance. His Majesty will be the best authority to explain to them that the life of a ruler is meant for hard work and not for the pursuit of pleasure. It will be the privilege of His Majesty to teach them economy in their households and non-interference with the ordinary processes of law. His Majesty's personal attention

will remove all obstacles in the way of Indian people, and will make the country His Majesty's enthusiastic supporter in the cause of the prosperity of the two Empires, British and Indian, which so proudly can join hands under His Majesty's leadership. The Secretary of State for India, whose interest, and therefore attention, was concentrated on ingratiating non-Indian people, could not protect Indians in British colonies, but can it ever be that the Emperor of India will fail? The Emperor of India, by acting thus, will doubtlessly remove all the ills of the country.

3. The most important features of the Act of 1935: their real importance is not yet understood by Indians, as they had not realised the true cause of mis-government.

The most important features of the Government of India Act of 1935 are the direct exercise in India, through Governors and Governor-General, of the powers of the Crown, and the consequent decrease of the power of the Secretary of State. With that decrease will come the disappearance of the influence of the cliques in Parliament over the Secretary of State. With the removal of the powers of the cliques in Parliament the extraordinary powers of the Governor and Governor-General are not likely to be harmful, and yet the people of India cannot discern this, because they had not actually realized that the true cause of mis-government was the influence of conclaves in Parliament.

4. A number of 'Indian Princes' are not princes at all, but hereditary servants; investigation of their status is needed.

His Majesty and the Indian people should cause one important investigation to be made. A number of so-called princes are not princes at all. These, who were Governors under the sovereignties of Delhi and Satara, such as the Nizam, the Scindia, Holkar and Gaekwar are not His Majesty's allies, but only servants, hereditary, but servants nevertheless, whose hereditary character His Majesty may or may not continue. People in the areas under their control are, therefore, subjects of His Majesty and entitled to the protection of His Majesty's judiciary. If it be His Majesty's pleasure that these hereditary servants may be addressed as His Highness, etc. nothing is to be said about it, but their status should not be misunderstood. It will be wrong to treat them as sovereignties, because His Majesty's subjects under them lose the advantage of His Majesty's direct protection.

The East India Company, whose status in the country was merely that of a Provincial Diwan i.e. Diwan of the Nizamat of Bengal, Bihar and Orissa, could, in the name of their Nizamat, address the Nizam of Hyderabad as an ally. Both were the servants of the Emperor of Delhi. This practice of treating the Nizam or the Gaekwar as allies should now be discontinued, as it is inconsistent with the law of the land which His Majesty and the people no doubt intend to fulfil.

The servants of His Majesty who come from England are not sufficiently interested in the rights of

the subjects here, and, therefore, do not care to raise the question regarding the status of the above potentates. These servants may have more to gain personally from their reticence in this matter. To treat these potentates as sovereignties is either ignorance or perfidy towards His Majesty. The present writer trusts that His Majesty will cause this to be investigated, and will decide whether the officers so much trusted have been worthy of the Emperor's trust. Provisions in the Government of India Act regarding federation are based on wrong information, and so it is necessary to amend that part of the Act.

Some treaty is contemplated between His Majesty and the Nizam. The writer points out that there can be no treaty between an Emperor and his servant. Not only the Government of Berar, but the governance of the entire territory at present under the Nizam can be taken over for direct administration by His Majesty at will. It was customary for the Emperor of Delhi to appoint himself the Diwan of the Nizamat over which he appointed or confirmed a Nizam i.e. a Governor. When His Majesty takes away from the Nizam any territory for direct governance, no compensation is due to the servant whose jurisdiction is restricted. The agreement between the Nizam and Lord Curzon was an agreement between two servants of His Majesty, one undertaking to do the work of another and paying the other for the loss of his jurisdiction. Such agreements are against the interest of the people and thus of His Majesty. The writer, therefore, suggests that the whole question should be thoroughly investi-

gated before His Majesty signs any document regarding Berar presented by his ministers.

5. Can India trust English Governors?

India cannot trust English Governors. Cases have been known when Governors were interested in selling to territories under them costly machinery in whose manufacture they were interested, and promulgated only such developments by which they were to profit personally, and, therefore, thwarted the projects of the people's representatives and of ministers representing them.

There is no knowing when a Governor will manage affairs in such a way as to block progress in order to foster his own personal interest and that of his friends. The only remedy against this is the opportunity to the people's representatives, and to ministers responsible to them, to have a direct consultation with His Majesty whenever possible. To encourage direct contact His Majesty should require that a quarterly address shall be presented by Indian legislatures, which may communicate to His Majesty their needs, their unfulfilled desires and their view of things which the Governor orders in his own discretion. His Majesty should also order that there shall be no secret communication between the Secretary of State and the Governor, and that the correspondence between India and Whitehall shall pass through Indian ministers, either of the Provinces or of the Federation. The writer also earnestly hopes that His Majesty will try his utmost to man and officer the Indian army by Indian people as completely as possible.

Whenever the Secretary of State may find it necessary to have direct correspondence with the Governor, His Majesty should require that no such letter shall go to India without his personal knowledge and authentication.

His Majesty also should issue no Orders-in-Council merely on the advice of a member of the British Government, but should insist on the presence of an Indian Privy Councillor when an Order-in-Council is to be passed on any material point.

May His Majesty's visits to India be frequent, so that the people of India may have greater opportunity of experiencing His Majesty's benevolence and of tendering their loyalty.

6. A new type of Indian statesmen is needed now in India.

The Indian thinking mind will take up the subject and will materially contribute to the creation of more pervading law for the Empire. Indian statesmen have never so far questioned the right of Britain to make rules for India. They have been in the habit of carrying out the ready-made rules. They have, therefore, not gone to fundamentals. India's statesmen arose from two classes. One class is of Englishmen. This class comes with a presupposition that the British Government has the right to rule India, and that India is a conquered country. The other class of statesmen in India is from such Indians as are promoted by them. This class also naturally is a class which will not dispute the right of Britain to govern India. In this

class of Indian statesmen there are again two classes, viz. those who have risen from government service, and traders who are selected by British statesmen to deal with. Naturally the government servants here cannot come to an understanding with people whom they call 'unreconcilable'. The Government of India, or Provincial Governments, being bodies of subordinate officers who act on the mandate of another people, are not able to reconcile what they consider extreme groups.

India and England have come under the same rule by some historical accidents, which are bound to determine their mutual relation. The present effort to prepare a constitution for India by Britain is a misguided one, which ignores historical antecedents. The British will not be prepared to govern their own country to-day by any written constitution, but they have the simplicity to believe that it is they who should make a constitution for a country differing from them in race and language, and which has its own principles of governance arising out of a civilization of several thousand years of unbroken continuity. This British belief in their competency to forge a constitution for India does not arise merely in simplicity of mind. They have been called upon, by force of accidents, to make some subsidiary rules for the governance of India, under the charters given by Indian rulers, like the Diwani charter. Rules made under those charters have become augmented, and now some members of the British Parliament have begun to believe that they have the right to frame a constitution for India.

Very often a very clever but inconvenient question is asked by British politicians of Indian politicians who appear before them pleading for devolution of rights. "What are you going to do if we do not give you any power?" they asked. This question used to be asked probably with double motive. One motive is to show the Indian leader his helplessness and to impress on his mind the generosity of the British politician. Another motive of the British statesman is to make the Indian utter some threats, and then raise

become very strong, both in utterance and in action. At present the Government has been exactly of this nature. There is nothing in law by which England can claim any authority over India. India is as independent a country as Britain is, and, therefore, India is entitled to assert her own independence when she chooses to do so. India can enter the whirlpool of world-politics when India chooses to do so, and will be able to get the assistance of other nations in achieving independence from England when India wants it. But India need not go to them to start with.

There are several ways in which India can approach the question in a constitutional manner, and exclusively by domestic statecraft. The Assembly can assert its own rights against Parliament and deny to Parliament any powers over India. Assembly can set up committees to approach a king directly, when it regards that the King's Secretary of State for India, or the Viceroy, is acting adversely to the interests of the country. The Assembly can also object to secret communication between the Viceroy and the Secretary of State, because secret communications are necessary only when the Secretary of State for India is a creature of non-Indian interests. If the Viceroy represents the King, it will not be correct for him to have a secret communication with agents of the Parliament of another country. This warfare is extremely easy if politicians know the real constitutional law and intend to use it properly. Things like Civil Disobedience are not necessary; on the contrary, effort should be made to make Government obey law.

The Government of India, not being free to come to an understanding with people who are likely to object to what Government is compelled to do, only a class with still more inferior mentality, which panders to the subordinate minds of the English official class in India, has risen to power and leadership. This class will always dwell on what is practicable and will give advice that will be listened to. When this attitude is strongly developed, the adviser really becomes an echo of the voice of the powerful class. It is hardly likely that persons of this mentality will really go into the correct principles of relationship between two countries under the same crown. On this account the

do so easily and certainly, if he is aware of Indian insistence on the point, and if we make our allegiance to him assertive enough. If we Indians do not approach the King, and keep on negotiating only with ministers responsible to British constituencies, the present state of events may continue. The representatives of Britain may try to manage so as to prevent Indian representatives from meeting the King, but they will never be able to achieve it. At present the ministers of each province are really King's ministers, and nothing can prevent them from meeting His Majesty. Whenever they find that the Governor is going against the interests of the province, and the Governor's attitude is not demanded by consideration of His Majesty's interest, but is being dictated by some narrow and selfish interests, they can certainly approach His Majesty and advise him about the matter.

In future years there will be a tendency of giving the province a Governor whom the province approves of. At present the provincial ministers have a chance of representing to the Secretary of State their disapproval of actions of the Governor, and letting the Secretary of State be the arbitrator between them. It is not likely that the Governors will risk an antagonism with the ministry. It will be galling to any respectable Governor to see his orders cancelled by the Secretary of State on the advice of the ministers; and therefore it is very likely that, when the Governor and ministers will disagree the Governor will have to agree to send the matter to the arbitration of the Secretary of State.

sented in Government, and antagonism between the Indian public and Indian Government ensued, and thus the Government, instead of receiving ideas and initiative from the Indian public, turned their backs on the Indian public and their faces to British Parliamentary politicians for orders. It is now high time to make Government come back to the representatives of the peoples, and to turn to constructive policy. It is, therefore, necessary to give Government to understand that the people of India mean to work out their destiny, and make a gesture of strong support to Government, expecting Government to identify itself with the interest of all people in India. While doing so, the majority representatives should confer with the minority representatives while fixing a programme, and prepare a programme that will appeal to the largest number. If the programme is not accepted, then the non-acceptance should be deemed to arise from non-Indian interests which the Secretary of State for India represents, and from the

9. A note on Policy.

After the advent of reforms of the Government of India Act of 1919 the Indian politicians could have taken up the line of constructive work enthusiastically, and worked out some programme also. They, however, wanted assurance from Government, that Government with their powers of official vote, the vote of nominated members and vote of minorities, which they could win over by special considerations, will not come in the way of national development. Thus some commitment from Government was sought, trusting that Government will always prefer majority co-operation instead of minority co-operation.

With the above object in view the late Mr. Tilak was forming what he called the "Congress Democratic Party", and had offered co-operation to Government, bargaining their response to his proposals. This bargaining gesture was worded as "Responsive Co-operation." Mr. Tilak subsequently died, and his successors possessed neither the desire for progress nor the courage to fight with difficulties, and so wrong counsels prevailed in the Congress, and the party of Nationalists at that time, which was supposed to be vehemently patriotic, was turned by Mr. Gandhi to non-co-operation. He collected millions in the name of Congress, Swaraj, and Tilak, and used the money entirely for his own fads.

Government thus was forced to rely on minorities, and groups which sought personal gratification or interests of small classes. Thus the public, consisting of the large majority of people, remained unrepre-

sented in Government, and antagonism between the Indian public and Indian Government ensued, and thus the Government, instead of receiving ideas and initiative from the Indian public, turned their backs on the Indian public and their faces to British Parliamentary politicians for orders. It is now high time to make Government come back to the representatives of the peoples, and to turn to constructive policy. It is, therefore, necessary to give Government to understand that the people of India mean to work out their destiny, and make a gesture of strong support to Government, expecting Government to identify itself with the interest of all people in India. While doing so, the majority representatives should confer with the minority representatives while fixing a programme, and prepare a programme that will appeal to the largest number. If the programme is not accepted, then the non-acceptance should be deemed to arise from non-Indian interests which the Secretary of State for India represents, and from the fear of the loss of office which the representatives of British interests are bringing to bear upon him. Immediate attempt must be made by the representatives of Indian people to free the Secretary of State from the evil influence of the British Parliament. This should be accomplished by informing His Majesty the Emperor of India of the impropriety of the existing practice i. e. of permitting the Secretary of State for India to remain at the mercy of non-Indian interests, and by bringing the Legislatures and the Government of India to that view by maintaining a

permanent office for its accomplishment, in order to carry out necessary judicial and political proceedings.

10. Aims of the Self-Determination League.

It will not be out of place to reproduce here the announcement made by the founder of the Self-Determination League, viz. the present writer himself, in September 1933, when he was re-organizing the League which he had originally founded in 1927.

Founder's Announcement:

"1. The League shall consist of members who believe determination of their country's constitution as their exclusive right, and will not tolerate any external interference therein.

2. The League seeks to maintain the existing constitution of the country as an Independent Empire, and will undertake to work any constitution given or approved by the Emperor of India that does not injure that status of the country, and shall resolutely maintain that status of independent empire in the working of government, and shall not permit the country's being reduced to the status of the Dominions or Colonies.

3. The League maintains that the Indian Legislature shall be supreme and uncontrolled by any external authority whatsoever, and expects the Secretary of State for India not to represent any British interest in the British Parliament, but cease to be responsible to that body. The League will continue to strive to achieve that result by every constitutional means in their power, and while assuming responsibilities of Government will request His Majesty to appoint to that post henceforward only persons who are represen-

tative of Indian interests, preferably an Indian assisted by men, whether Indian or European, who have done efficient service in India of a character approved by Indian people.

4. The League when in power will expect the administration to make great constructive effort for Indian economic advancement and also for promoting international trade. Believing that economic betterment of every nation depends on the economic betterment of others, the League when in power will cause government to co-operate with other countries to improve the economic depression of the world.

5. The League recognizes that every language or culture has a right to live, and that every people have a right to use that language through which they can reach cultural advancement most easily, and does not approve of efforts, either of a community within a nation, or of any nation or nations within the community of nations, to destroy the culture of any particular race, people or religion for fostering their own. The League will enable various communities within the confines of India to seek their cultural advancement in their own way, and the League shall see that there shall be no compulsion of any people to accept any particular script or language. There shall be no disproportionate use of public funds in order to give a particular language or religion an advantage over others.

6. The League will not permit any racial or communal discrimination as regards public appoint-

ment, although in lower grade of services, for which ample supply of men can be found, the principle of encouraging every section of the population in public service will be maintained.

7. With reference to European peoples who are already subjects of His Majesty, provided they acquire the required domicile, they will be treated with perfect equality. There shall be neither special rights or privileges, nor disabilities, to European subjects of His Majesty. Any rules made by the Secretary of State or by the Viceroy, or by public service bodies, such as railway companies, to give to them a differential treatment, shall be abolished. The League also will see that the European population will not be subjected to any discourtesy or to a spirit of unwelcome.

8. There shall be no particular religion fostered by the State: the League regards that any rules which Parliament may have imposed, giving any church any special privileges in this country are unconstitutional and invalid, and will see that such rules are not kept on the statute book.

9. The League, while encouraging the best employment for labour, skill and capital of Indians will welcome all these from outside, and will be prepared to welcome outsiders who will co-operate in the development of India according to Indian outlook. It will, for this purpose, effectively co-operate with representatives of the Trade Boards of His Majesty's Empire, in organizing and promoting schemes of mutual benefit.

10. The League recognizes the fact that, as long as complete faith in each other is not established, special representation in legislatures and other public bodies to Hindus, Mahommedans, Christians, Jains, and Parsis will not be undesirable, as by such representations each community may be able to guard their own culture or interests, so that the Government of the United India will be of service to all cultures and communities. The League, therefore, seeks to unite all communities in India, making them members of the League, and assures each group protection of their cultural life.

11. The League will use the powers of the Government to encourage Indian industry, will enquire into the grievances of the workers, and remove them as far as possible. The League favours neither socialism nor capitalism. The League believes in maintaining stable and continuous industry. The League sympathizes with the idea of giving workers better opportunities of work and more amenities of life. The League will favour severe dealing with those who create disturbance in industry, either unnecessarily, or by the use of foreign funds, or organize strikes for illegitimate personal advantage, but will welcome the idea of giving partnership to labour in industrial profit.

12. The political work of the League is to be carried on even before the new election. Seeking increase of membership and co-operation of the people, it will make its principles a PEOPLE'S MANDATE, and will convey for adoption that mandate to the

existing Council members and other representatives of peoples, and to members of Government. The conduct of such persons as are not amenable to the principles and direction of the League shall be noted for further guidance.

13. The League's immediate attention when in power shall be directed to initiate a programme of economic betterment by encouraging roads, canals, and better housing, encouraging ship-building, and building of aeroplanes, manufacture of railway materials and motor cars etc. with attention to the needs of the country, and to the likelihood of finding ready market in England, the Colonies and foreign countries.

14. The League will seek to establish more personal contact between India and His Majesty by such means as may be thought fit.

15. The League will see that the entire Indian Army, Navy and Air Force become rapidly Indianized, that is, officered and manned by Indian people exclusively; and no army of European race will be tolerated in India unless the other parts of the empire agree to employ an equal number of Indians in their army.

16. No railway company, steamship company, or banking company and no public service corporation shall be allowed maximum privileges in India unless it has a fairly effective proportion of Indian directors, or nominees of the Government of India.

17. The League awaits the inauguration of the Empire Parliament with a full confidence that inauguration of such an institution alone will promote that

mutual confidence so essential to the smooth working of the empire governance.

18. The League does not desire that Government should take any lead in purely communal matters, except that it will encourage public control over public funds, although the funds may be primarily communal.

19. Knowing that the disposal of large funds lies with the Secretary of State, and knowing that non-Indian influences govern the affairs at India Office, as the Secretary of State himself continues to be a creature of non-Indian constituencies, the League projects to keep an office in London to advise the Secretary of State, and to counteract adverse influences that may be at work, and to remove permanently these influences which destroy the independence of the Government of India.

11. The latest achievement.

What has been accomplished is the discontinuance of the power of conclaves in Parliament by the transfer of power from Whitehall to Delhi. The law-making power of Parliament is not surrendered, but Parliament itself has put serious limitations to it.

CHAPTER XVII.

WHITHER CONGRESS?

1. Defects of the present Congress.

The idea that a large number of people should gather together throughout the country once a year may be a matter of great social value, but this has

ceased to be a matter of any political usefulness. This has been felt for over a score of years. People gather in haste, disperse in haste, find that they have very little time to think, and still less to discuss things in a statesmanlike manner; and as a result of it, people had begun to question its usefulness in the pre-Amritsar days, even when the intellectual class ruled the Congress.

The present Congress has the following defects, which are here set forth by quoting extensively from the notice which the present writer sent to the President of the Bombay Provincial Congress Committee on 11-3-1936.

Extract from notice sent by the author to President of Bombay Provincial Congress Committee on 11-3-1936.

"I am convinced that the Congress has ceased to be useful, and that if it is allowed to continue its existence any further, it will be nothing but a nuisance to the country, and a great obstacle to well-ordered political life and progress. The Congress, and not Government, is the chief obstacle in the way of people who intend to do any constructive work for the good of the country, and so the Congress must either be very thoroughly mended or ended. I find that, under the present circumstances, it is not possible for the reformers within the Congress to achieve any success, as forces of dishonesty are too powerful for them to contend with, and it is their helplessness, more than anything else, that is driving me to the alternative of suppression of the Congress through a Court of

Law. The normal working of political life has been disturbed by: a political worker giving false promises with no idea of, or knowledge required for, redeeming the promises. If an organisation, acknowledging itself as a business firm, had only a small fraction of Congress vagaries and irregularities, a Court of Law would have been approached and prevailed upon to abolish that firm long ago. I do not see why the Congress should not be subjected to those tests of sagacity and fidelity which we expect from other bodies professing to do a lawful business. The Indian National Congress has been collecting huge sums, and disbursing them, with the avowed object of getting 'Independence for India'. What Congress really did want to achieve, and what methods were to be adopted for the purpose, was never made clear to the public from whom the Congressmen collected funds. In collecting money on false pretences Congress has been the worst offender known to modern public life. Without clearness in the objective, and in the methods of achieving it, huge sums were collected and improperly spent. Not having any definite idea of independence the Congress did not really try for it, nor did it become conscious when the substance of independence i. e. freedom of the governance of India from Britain's control, i. e. from the British Parliament's control, became practically achieved.

Congress did not help to achieve this freedom from Parliament's control. On the contrary, the Congress worked against the efforts which were com-

menced by me for the removal of Parliament's power over India by an action against the Secretary of State. Congress, not having understood that the freedom of India means freedom from Parliament's control, still talks of achieving it, and is advising the country fantastic measures therefor, and the Congress, by bringing every sort of obstacle in the way of those who mean constructive work, refuses to give India the required chance of working out her destiny. It is making no plans about economic reconstruction, and is yet contesting elections, with the avowed object of showing that the new reforms are meaningless. Thus the Congress to-day is nothing but a body of anti-social persons, who mean to collect funds and misuse them.

The Congress has taken an anti-social turn since 1920. It started first as an association merely for representing to the Government the popular needs, but it gradually became unnecessary, as people got councils to represent their needs. After the Reforms of 1919, Congress leaders like Mr. Tilak, understanding the situation, tried to give Congress a longer life by changing its nature, by trying to make it a party institution, removing therefrom the Moderates. He succeeded in doing this by instituting proceedings to which the Moderates could not subscribe. Mr. Tilak had methodical plans, which remained unrealized on account of his untimely death. He intended formulating a programme of democratic character, and tried to create the 'Congress Democratic Party'. After the death of Mr. Tilak his followers showed

inability to carry out his ideas, and the Congress therefore passed under the leadership of Mr. Gandhi. This man frustrated Mr. Tilak's plan of constructive work, as constructive work would have been unsuitable to his leadership. Mr. Tilak's plan consisted of three steps, *viz.* (i) formulating a plan of economic and educational reform of democratic character, through a party of his followers, to be known as the Congress Democratic Party ; (ii) this plan was to be amended in the Congress itself and, (iii) after getting the Congress acceptance to the plan, it was to be presented to Government for 'response' after election, and if the Government showed the required response, then the offices were to be accepted. This idea of acceptance of office after receiving response was known as 'responsive co-operation.'

After the death of Mr. Tilak, Mr. Gandhi received the leadership in the Congress. He had no intelligence for socio-economic development, and had heretofore lived for years on agitation, *viz.* on collection of public funds and their use or misuse. He worked according to his mentality and previous training. Mr. Gandhi would have failed as a constructive worker of national economic development. He undertook to dissuade people from making use of the state altogether. He gave up real political pursuit, and led the country into a sequence of unpolitical ideas and actions. He moreover was duped by the praise of Christian missionaries, who called him a 'Saint' because they found that he praised Christ, although he remained a Hindu. Mr. Gandhi himself began to

Britain's authority over India's governance, but for his own fads, personal advertisement, for payment to his flatterers, and as loans to such commercial concerns as he pleased. The Congress at that time financed the Akalis in their struggle against their spiritual leaders and spent over four lakhs of rupees, and caused the sacrifice of many lives, only in order to obtain for the public the control over their religious funds, a thing which non-Brahmins in Madras achieved easily by ordinary legislation. Money in the hands of Mr. Gandhi always proved to be hardly better than a firebrand in the hands of a monkey. Many people resented his ways, but in vain. Mr. Gandhi saw that such persons were put out of the Congress altogether. His further effort has been to prevent people, who are likely to question his will, from rising to power in the Congress, and for that purpose he began to impose fantastic conditions for Congress membership, so that sane and conscientious people would keep away as they would not subscribe to absurd conditions, and people convenient to him would do so. Mr. Gandhi tolerated, in fact encouraged, those people who apparently accepted those conditions, but actually never observed them, making a false declaration that they did so. With the backing of such people he has been maintaining his supremacy in the Congress, and now even the reformists have to yield to these conditions. Mr. Gandhi thus encouraged dishonesty and falsehood, but kept shouting about 'truth' from the housetops at the same time. The attempts of people who questioned the utility of his methods he

believe that he really was a saint, and gradually assumed the external appearance of a 'naked Fakir,' whom he regarded as a saint. He began to lead the country into adopting unpractical pursuits and lost causes in order to substantiate his sainthood, which had been imposed upon him. When Christians made him a 'Saint' Indians began to translate the word as 'Mahatma,' an epithet by which he is now popularly known. The public having been duped by the praise of Christian missionaries, and himself having acquired the knowledge of collecting funds more than any other leader, Mr. Gandhi was enabled to come to the front, but his efforts to achieve the objective were insufficient and wrongly directed, because he believed in the adequacy of mere huge demonstration to achieve Swaraj. His actions seem to be strangely imitative of the ways of women who figured in the preceding political life of Britain. Although a man of common-place intelligence, he still succeeded in giving the country a career of non-co-operation, as he promised results in one year, and led the Congress and the country along a wayward path, from which the Congress now finds it hard to return.

Mr. Gandhi, when he came on the scene in 1920, collected stupendous sums of money in the name of Mr. Tilak, Swaraj, and Congress, and after collecting the huge amounts from donors, proclaimed the doctrine that donors have no vote, and managed the funds with the theoretical control of the four-anna Congressmen of his own creation, used the sums, not for the avowed object of Independence or removal of

Britain's authority over India's governance, but for his own fads, personal advertisement, for payment to his flatterers, and as loans to such commercial concerns as he pleased. The Congress at that time financed the Akalis in their struggle against their spiritual leaders and spent over four lakhs of rupees, and caused the sacrifice of many lives, only in order to obtain for the public the control over their religious funds, a thing which non-Brahmins in Madras achieved easily by ordinary legislation. Money in the hands of Mr. Gandhi always proved to be hardly better than a firebrand in the hands of a monkey. Many people resented his ways, but in vain. Mr. Gandhi saw that such persons were put out of the Congress altogether. His further effort has been to prevent people, who are likely to question his will, from rising to power in the Congress, and for that purpose he began to impose fantastic conditions for Congress membership, so that sane and conscientious people would keep away as they would not subscribe to absurd conditions, and people convenient to him would do so. Mr. Gandhi tolerated, in fact encouraged, those people who apparently accepted those conditions, but actually never observed them, making a false declaration that they did so. With the backing of such people he has been maintaining his supremacy in the Congress, and now even the reformists have to yield to these conditions. Mr. Gandhi thus encouraged dishonesty and falsehood, but kept shouting about 'truth' from the housetops at the same time. The attempts of people who questioned the utility of his methods he

always defeated with the help of his four-anna Congressmen, lists of whom could be made up at any time. Mr. Gandhi maintained his power by dishonesty and trickery all along, and always avoided real work. He was at last forced to take action at Lahore Congress, but when he acted he acted dishonestly. When the campaign of Civil Disobedience was launched, Britain's power over India was not objected to by him, but only some paltry points, sane or insane, were made the bone of contention. When the civil disobedience movement was over, and when the Congress was invited to participate in the Round Tabel Conference, Mr. Gandhi succeeded in persuading the Congress to appoint him as sole representative for the Congress. He, however, betrayed the cause of the Congress when he went there. Instead of denying the British Parliament's authority on the spot, he involved himself in petty matters; he even tried to show off his 'saintly' character there by refusing to demand for India full control of defence. When he returned to India he gave no opportunity to the Congress to consider whether he had fulfilled his mission with sagacity and honesty or not, as he courted imprisonment, and after he was imprisoned he performed a fasting stunt and helped to increase the membership of depressed classes in the legislature, a thing which, if the initiative of the Secretary of State, i.e. the power of cliques in Parliament over the governance of India, had not been removed, would have been extremely injurious to the country, inasmuch as these depressed class members, with their

humble objectives, would easily have become tools of Government, which itself would have been under the control of British interests active through their Parliament members. Thus Mr. Gandhi's practical work, with the Congress prestige behind him, would have served only to bring the necks of the Indian middle class into the grip of foreign conspiracy, to be assisted by our 'depressed classes'. While this mischief by Mr. Gandhi was working the Congress looked on, and did not chastise him.

Mr. Gandhi, however, saw that public feeling against him was growing in the Congress, and, knowing that there will be many people who, in open meetings, will question his ways and underhand dealings, he resorted to the trick of proclaiming that he himself intends to retire from the Congress, and pretended to retire. As a matter of fact he never retired. He had 'unofficial' meetings of the Congress executives at Wardha, and materially guided the policy and transactions. In fact, he wanted to govern Congress without being responsible to it. He has thus defeated the reformists in the Congress completely. He is a full-time man, with huge sums at his disposal, and has no scruples of conscience when his power is to be maintained. He has the ethical ideas of a left-handed lawyer, and the conscience of a British politician, combined with the skill of the bania of old times in collecting public money and using it for personal purposes, at the same time making a show of personal disinterestedness. Above all, he has acquired all the tricks of Guruism,

i.e. tricks of professional 'spiritual' leaders, so well known in India.

All these facts being in his favour, reformist forces are found unable to improve matters or to act against him. It is, therefore, necessary that the Congress also must end, if Mr. Gandhi's leadership, and his power of mischief, are to come to an end. I, therefore, must make it a necessary condition, that, if the Congress does not desire to have proceedings in Court to discontinue its existence, the Congress should either end itself by its own resolution, or should continue as a reformed body. As a preliminary step the Congress must expel Mr. Gandhi with a vote of censure and disgrace.

I will postpone my action till after the Lucknow Session of the Congress is over, so that the reformists in the Congress may have a final opportunity of bringing Congress into a path of usefulness, or enabling the Congress to discontinue its existence by its own will. The Congress will be perfectly justified in resolving on its own dissolution, since the Congress sub-stratum is gone by fulfilment of the object for which Congress stood. The main object of Congress i.e. independence i.e. freedom of India from Britain's i.e. British Parliament's control is already achieved. The Congress can ascribe this fulfilment of its object to its own effort, at least partly, if it likes to do so, since, after the progress of the civil disobedience movement, the British ministry did declare their intention of giving India central responsibility. The Congress may regard this commitment

of His Majesty's Government as having been an important factor in removing the British Parliament's authority over India. Whatsover may be the real cause, the power of the British Parliament over India is really over to-day.

Another alternative before the Congress is to become the main political party in the country, representative of the general interests of the country, giving up, however, pretentions to efforts for acquiring independence, which is already acquired. The Emperor and the Indian people represented in the legislatures are a power completely sovereign and independent. The Congress must, therefore, decide to commence real practical work, formulate a plan of national development, and work it out. It should, as a preliminary step, permanently remove the great misleader, Mr. Mohandas Gandhi, by giving him a dismissal of disgrace. The Congress should, moreover, discontinue the fraudulent management supposed to be run on the authority of four-anna members, the correct list of whom is never kept.

When the matter goes to the Court it will be clear to the public that the country has been deceived by Mr. Gandhi on numerous occasions, that his conduct throughout has never been that of a seeker of the country's independence, and that a number of unscrupulous men have been continuously sponging on the public. The evidence that will come before the Court will lead to a number of criminal prosecutions necessary for us, so that the public life in India will become purer than ever before.

I must also add that it will be with the greatest unwillingness that I shall commence proceedings for the winding-up of the Congress, an institution which *has lived for over half a century, and that if the* Congress wishes to do all further work in a business-like manner for the economic and cultural betterment of the country, and harnesses itself enthusiastically to work, and makes the changes referred to above, I have no anxiety to seek the aid of law or to cause the discontinuation of the Congress.

achievement. It is, therefore, I who must take up a fight for asserting my claim. Congress collected public money by millions. It spent the millions for purposes other than those for which they were intended. It is, therefore, but expected to ignore the person who did the real work. In order to ignore the person, Congress ignores the importance of the removal of power of the British interests acting through their Parliament over India's governance. The Congress is thus not only cheating me, but cheating the Indian public, the donors especially, against whom the Congress enforced the dictum that donors have no vote. The important donors, therefore, will be given a chance to join me as co-plaintiffs if they so desire. When the people paid large sums they paid them for the delivery of the country from foreign control, and not for fattening the Congress leaders and their hangers-on. Thus the action is to be brought to vindicate the donors also, whether they join as co-plaintiffs or not.....Another person injured by the Congress attitude is His Majesty himself. When His Majesty as King of Great Britain and Ireland has, with the consent of his people there, permitted exercise of his authority directly in India, and thus removed the dependence of India's governance and has ordained that Governors and Governor-General shall be guided by ministers responsible to representatives of Indian interests, to continue to regard the country as a dependency still is an insult to His Majesty himself....."

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The Government of India Act of 1935 removes the chances for British politicians to injure India, or to meddle in its affairs, by the removal of power from England to India. This was wisely done by His Majesty's ministers with the consent of the whole Parliament itself, groups within which were causing disturbance to the working of popular Government in India. Thus, the cause of dependence of the Government of India being removed, the country has become independent, and Swaraj is obtained. *By the present attitude of the Congress, which refuses to believe that Swaraj is already obtained, every citizen of this empire will be injured, as he will be denied the advantage of the proper use of constitutional opportunities.*

Apart from the losses I am having, and am likely to have, as a citizen of India, as above-mentioned I am one of the chief parties who have to bear very great additional losses by the Congress attitude.

When Swaraj has really been obtained chiefly *through my effort, and when Congress denies that there is Swaraj, it is denying me the credit of a great*

achievement. It is, therefore, I who must take up a fight for asserting my claim. Congress collected public money by millions. It spent the millions for purposes other than those for which they were intended. It is, therefore, but expected to ignore the person who did the real work. In order to ignore the person, Congress ignores the importance of the removal of power of the British interests acting through their Parliament over India's governance. The Congress is thus not only cheating me, but cheating the Indian public, the donors especially, against whom the Congress enforced the dictum that donors have no vote. The important donors, therefore, will be given a chance to join me as co-plaintiffs if they so desire. When the people paid large sums they paid them for the delivery of the country from foreign control, and not for fattening the Congress leaders and their hangers-on. Thus the action is to be brought to vindicate the donors also, whether they join as co-plaintiffs or not.....Another person injured by the Congress attitude is His Majesty himself. When His Majesty as King of Great Britain and Ireland has, with the consent of his people there, permitted exercise of his authority directly in India, and thus removed the dependence of India's governance and has ordained that Governors and Governor-General shall be guided by ministers responsible to representatives of Indian interests, to continue to regard the country as a dependency still is an insult to His Majesty himself....."

CHAPTER XVIII.

CONCLUSION.

1. The true status of India in Law.

The removal of power of the British Parliament over the governance of India is accomplished by the Act of 1935. The passing of this Act is really a mere admission from Britain of what has been true law prior to the passing of the Act. When that Act will be in operation the true status of India will really be understood. It is but proper that the world also should know the true law of the governance of India, so that the world may contribute to the maintenance of true law. The greater part of the world is now organized under a League of Nations, of which India is an original member, and thus the observance of the true law of India is as much a concern of the outside world as it is of India. It should not, however, be considered that India is not able to assert her own rights as a free and independent Empire. The wrong methods of Government, established for over three quarters of a century, have been materially displaced, by power of knowledge alone, by the present writer, who had not only the whole Government of Britain to contend with, but also the leaders of Indian opinion. He had to work almost single-handed against the whole world, and success is due to the logic of facts. The credit of this great accomplishment achieved single-handed is thrust upon him, although he was willing to share it with others, asking their co-operation and help. But the co-operation was denied,

and the credit of single-handed achievement is thus forced upon him alone.

India was never a dependent country in law, and all the fighting that it became necessary to do was to assert law. Indian leaders were trying to bring about what they considered new conditions, but the writer, in seeking the removal of the Parliament's authority, was merely making an effort to establish the true old law. The story of this great accomplishment, which the author of this booklet is to be credited with, is found in the foregoing pages. The booklet aims to do more. It tries to detail a further course of action. The author sees a very great future for India henceforward. He predicts that India is bound to attain leadership in His Majesty's Empire, and will make the world state a reality.

India stands forth to-day as a country possessing the largest number of people organized in one polity, and so the attainment of India to power is bound to be a new era for the world—an era of peace and prosperity.

India is not a defeated country. It is the land of the world's greatest thinkers, and is, in political science, a country far in advance of other people in the world. India has accomplished for herself a firm political unity by political principles of her own, which have been far in advance of all other countries. The chief factor of India's political history is her own political unity. It was brought about by political philosophy developed in India, namely: "Unite ministerships of various States into one corporation, and thus unite India." This principle was laid down by

the Peshwa; it was followed by Dupleix, and further followed by the British.

The world is not used to seeing India in action, as India's ability to act for herself was circumscribed by strange circumstances, which gave India the appearance of a defeated and conquered country. On account of loyalty to her own political principles she temporarily became subject to an agency, whose effectiveness India understood and utilized for herself. A servant becoming a master is a common phenomenon, and the master tolerating the servant to over-ride him, although conscious of the master's right, is also a phenomenon familiar to us. The East India Company, which was the Diwan of India, was more effective than any other servant, and so this Company was given, by India, every encouragement to become sole director in Indian politics for the sake of the sovereignty of India. The strange circumstances under which the Company was working became the chief cause of India's sorrow. How India suffered from the constitutional defects of the Company, how she corrected the defects, and how she freed her people from the clutches of the people of another country, is a story, simple but, at the same time, of extremely singular character.

In securing the freedom of the country the author had, as has been previously mentioned, to do the main work, not only unaided by his people, but, in fact, opposed by his people. Freedom of the governance of India from the foreign control is now accomplished. It devolves upon the author to explain that the freedom

now obtained is real, and also to explain the further philosophy of action.

2. Ignorance of India's politicians.

If law is on our side, that means reason is on our side, our steps are clear to ask for rights on some general principles, and asking on the principle of our own competency has not been a method that was likely to succeed, because parting with power is never done because of the fitness of the person who desires it. The party who wishes to have any power should first of all try to show that the one who is using the power is a wrongful user or possessor. At present Indian politicians were, and are, thinking that the British Parliament is right in using power over India. They did not question it. They have not shown the slightest intention of demonstrating the fact that power over India cannot vest in the representative of another people. The fact of the matter is that no practical politician in India has worried, even slightly, about asserting the legal independence of India. They are talking of independence simply because they have learnt English poetry about liberty and independence, and it has become fashionable to speak about it. The author actually found that a number of men who either went to attend the Round Table Conference, or were co-opted by the Joint Parliamentary Committee, had not read the Government of India Act of 1919. Among these men there were actually leaders of the most important political parties in the country. What did a man like the Right Honourable Mr. Shastri mean when he asked

for Dominion Status? Dominion Status does not include the right of war and peace with other countries. The Government of India already possesses this power Under these conditions only ignorance can ask for Dominion Status. Mr. Gandhi is no less a sinner than Mr. Shastri. He wanted to have the idea of Constituent Assembly recognized by Parliament. If Parliament wishes to do permanent injury to India it can certainly allow the idea of a body like Constituent Assembly to develop. It can bring about the Constituent Assembly in such a way as will give the largest number of votes to minorities, so that the main community in India can be strangulated; and Mr. Gandhi, in order to show that he is not against Mahommedans, will easily consent to it. The idea of Constituent Assembly was copied or borrowed from the author's 'proceedings' without intelligently understanding it. An intelligent idea was stupidly copied. In the telegram which he sent to His Majesty, which was intercepted by Government, but which was published in some papers nevertheless in January of 1930, the author had asked His Majesty to discontinue the control of Parliament, and His Majesty was invited to come to India and to summon an Indian States-General and govern India with an Indian-made constitution. In this telegram the right of Parliament to govern India was rejected, and the King was asked to invite an Indian body, and not the British Parliament, to make laws for India. Mr. Gandhi takes up the idea, maltreats it, uses a barbaric phrase which does not convey what Gandhi means, and admits the

right of the British Parliament over India, which the author denied in his telegram!

If we know positively that Parliament has no right to govern India the question will be asked: "How are we going to assert our right? What is not legal can be made legal by passing an act." People will ask this question because they cannot escape the shadow of the beliefs which agents of the British Parliament in India have created. The belief in the final power of Parliament is so deeply ingrained that such a question naturally arises, although even an uneducated man possessing ordinary powers of reasoning will not ask such a question. Parliament itself has never claimed the right of legislating for India. All that Parliament claims, in practice, is the right of making subsidiary rules under the charters given by Indian princes to the East India Company, of which His Majesty's Secretary is a successor.

3. Peculiar moral conditions of to-day.

The moral conditions to-day are peculiar, and they require rather elaborate explanation. The peculiarities of the situation are to be analysed and separated, so that the incomprehensible attitude of the people may partly be understood. People, at a time when they have had no faith in Mr. Gandhi's precepts, seemed to follow him nevertheless. It is partly due to the Indian sense of loyalty. The subjects of Indian rulers will stand by the ruler, howsoever bad he may be. They show the greatest patience with their king or leader. So, in the case of a ruler, they will say that the ruler is a good man but his ministers are bad; thus

also they will blame the kind of persons whom Mr. Gandhi may have had around. The King-Emperor, as practically non-existent, and the Governors and Viceroys known to be creatures of the British Parliament, the person who appeared to be stoutly opposing the Government which they considered as a body led by antagonistic interest, the Indian leader alone, became all-supreme. This situation augurs well for the future of Indian politics. The public leader will in future mean much more in India to Indian people than he is likely to mean in England to English people, unless His Majesty the Emperor shows himself more and more, and is more active in the selection of ministers.

4. Reasons why the Indian public failed to respond to the author.

The reasons why the Indian public failed to respond to the author, or to co-operate with him properly, became clearer to him after understanding a large number of people's objection to his working. People, from ordinary school-boys to members of His Majesty's Privy Council, and some members of the British Parliament also, considered that his method was thoroughly wrong, and told him so. In the condemnation which he received there were various factors. To some people his solution looked too easy, and they could not believe that such an easy solution could be possible. They said: "If assertion of the independence of India was such a simple matter, how is it that no other person used this method before you?" Some people regarded Parliament as all-powerful,

and felt that any efforts in opposition to the Parliament *itself are simply like dashing one's head against a stone* wall: that might is, after all, right–and whatever reason, or legal proceedings, we may push forward, will be of no avail. They said: "Who is going to decide the case? The deciders of the case are going to be men of Britain after all—and they will not be able to rise to impartiality when their country is a party." A large number of lawyers in India, being drilled into the belief in the Austinian theory of law, said that whatever is enforced *is* law, and that, whether Parliament has the right to make laws for India or not, it is making laws which are being enforced and obeyed. Thus, there was a strong undercurrent of belief in people's minds regarding the omnipotence of Parliament, the legal power of might, scepticism regarding the fidelity to justice on the part of the judiciary and, above all, a consciousness of our helplessness. This moral condition was permeating the minds of the entire intelligentsia, from whom the author materially differs. The adequacy of Austin's definition of law, in the author's opinion, has serious limitations, as it is not useful to the highest judges of a realm. The author always calls Austin's definition a 'Sub-judge's definition of law.' A Sub-judge enforces what is enforced by powers above him, and Austin bows only to power. The courts in India, being fed on Austinian theories, naturally regarded the Parliament's mandate as something higher, which they are bound to carry out—and they did not seriously inquire into the exact legal limitations of Parliament's authority.

Moreover, the author realized that, in England itself, ignorance regarding the power of Parliament prevails, just as the clerk of a District Magistrate in India, in olden days a great deal, and even now to a certain extent, wants us to believe that the 'burra saheb' simply signs — it is he himself who really acts for the district. The ministers of His Majesty may appear to the public as persons who really decide things, and His Majesty may appear to be a non-entity. This may be true in a large number of matters of secondary importance, but it is certainly not true about matters of grave importance. If it were true of matters of grave importance the absence of His Majesty from the realm would not have mattered. But when we pay attention to the large number of official arrangements which Britain had to make when His Majesty only visited India, the importance of Royalty will be clear. Moreover, what interest does Royalty have in choosing particular methods of raising revenue? There is no reason why His Majesty should not give complete latitude to his ministers, whom he knew to be in close touch with the people. What actually happens between His Majesty and ministers is never known, and it is to the interest of both the monarch and his clerks to let it appear that the clerks do everything. Whenever the ministers, or Parliament, do not come up to the expectations of the monarch, he can dismiss ministers or dissolve Parliament, and the ministers, therefore, conscious of the power of His Majesty, dependent on the votes in Parliament for their office, are always required to practise the

art of a go-between, just as the Diwans of an Indian State have to show full attention to the desires of the ruler and of the Political Agent.

5. Conclusion.

Now, in conclusion, let it suffice to say that, in the foregoing pages, there have been traced the events leading up to the great Victory, the method by which it was achieved, and its full significance, together with suggestions for the carrying-out of future policy. The author trusts that his effort has cleared away the mists of doubt from before the mental eyes of Indian people, and he once again expresses his inmost, heart-felt conviction that this is indeed the dawn of a new era of bright and prosperous days for

"VICTORIOUS INDIA!"

APPENDIX.

Important Documents filed in the case against the Provincial Congress Committee

A. In the Court of the First Class Sub-Judge, Poona, at Poona

Dr. Shridhar Venkatesh Ketkar, M A., PH.D., Brahman by caste, aged 52, occupation Author and Encyclopædist, *residing at 8, Parvati Villas, Poona.* } Plaintiff

V/S

Shankarrao D. Dev, Esquire, B.A., Brahman by caste, age about 40, President, Maharashtra Provincial Congress Committee, 291 Shanwar Peth, Poona City. } Defendant

Claim Rs. 5

The Plaintiff above-named begs to state as follows :—

1. That the defendant, Mr. Dev, is the President of the Body called Provincial Congress Committee, and is a Member of the Working Body of an Association called Indian National Congress, called further as "The Congress". He is thus an important constituent and agent of that body and is having continuous activities in Poona to further the interests and objects of that Body, especially the resolutions of the Lucknow Session held in April, 1936, and of the Executive Council,

which came into office after that Session. The Policy this Body is pursuing is fraudulent and injurious to the public as it has resolved in the Lucknow Session in the 9th Resolution that the Government of India Act of 1935 is "designed to facilitate and perpetuate the domination and exploitation of the public of India". Misrepresenting the Act thuswise, the Congress is collecting funds throughout the Country and is trying to win the elections. It is going to have a Session of Congress in Maharashtra before the election. Its President and chief propagandist is Pandit Jawaharlal Nehru, who is saying that nothing of importance can be accomplished under this Act and is talking about wrecking the constitution. Congress, therefore, means to capture places of power for no public benefit if it decides to take up Ministerships. It is thus defrauding the public of a programme of economic betterment, making the believers in honest working of the constitution objects of ridicule, if not of public hatred. It thus injures the Plaintiff as a member of the Public, which is being paralysed by mis-representation of opportunities. It also injures the Plaintiff in a personal capacity by denying the actualities of the Country's independence, to which the plaintiff has materially contributed, and Plaintiff is, therefore, seeking protection and redress from the Congress attempt of un-doing his work.

2. That apart from the fact that it is injurious to the plaintiff, the Congress deserves discontinuance for various other reasons. The Congress is an unregistered body having more than 20 Members not subject to prescribed rules of management or to control by a

Government Officer, as registered Societies, Co-operative Societies or Companies are and yet it has huge financial transactions. Its financial transactions, being so un-controlled, are giving rise to every sort of abuse. At a time when it had the largest financial transactions, as it had during the years 1920, 1921, 1922, 1923, when it collected over a crore of rupees, and mis-used them, the management fortified its own position by promulgating the doctrine of boycott of Courts, and thus made their donors and constituents completely helpless, as the man who might appeal to the Court would be treated as a blackleg by the numerous adherents of the Congress. The Congress thus encouraged frauds, improper transactions and business irregularities, on enormous scale and thus created an atmosphere of general distrust in public work, so injurious to the Country's economic life. In order to indulge in irregularities it also created contempt for law and for Courts of Law. The Congress again mis-represented India's constitutional law for its own purpose. In short the Congress is a body acting in a manner so improper that it should not be allowed to exist, and so it is necessary that the defendant should be restrained from carrying out any financial and other transactions for that Body, so that there shall be no continuation of life for that Body.

3. That a continuation of this body is not likely to serve a useful purpose any longer since the advertised objective of the body, viz. Swaraj, is attained by the Government of India Act of 1935. Not only what the Lucknow Congress says, viz. that the Act "is designed to

facilitate and perpetuate the domination and exploitation of the people of India" is wrong, but just the opposite is true. The Act on the contrary removes the charges of perpetuating the domination and exploitation of people of India. Swaraj or the substance of independence i.e., discontinuance of Britain's power i.e. British Parliament's power over India, is, under this Act, an accomplished fact. This independence is attained through the efforts of an Agency other than the Congress and so Congress is induced to deny that Swaraj is attained, so that the work of the person who really accomplished the desired result viz., the Plaintiff, can be ignored and that the Congress leaders may have a continued opportunity to sponge on the public. That the Congress Leaders desire to conceal Plaintiff's achievement as they looked at it with jealousy is a thing which can easily be proved. During the course of the legal proceedings which the Plaintiff had instituted against the Secretary of State for India in order to free the Government of India from the British Parliament's control, the Congress papers abstained from reporting it and it is found that these papers acted then under the direct instructions of some of their leaders. Congress used the words "Purna Swaraj" for its objective. If by that they meant "Independence" it is really achieved. If the British Parliament's power over India ceases and Indian Government becomes responsible to India's representatives, it is really independence. If that is achieved the objective of the Congress is fulfilled and the substratum of the Congress edifice is gone. Congress

leaders, knowing this, have persuaded the body to pass resolutions, which are mis-leading the public, which is being made to believe that Swaraj is yet to be attained and that Congress is going to obtain it. Both claims are absurd and fraudulent and dishonest in the highest degree.

4. That the Government of India Act of 1935, is completely a Swaraj Constitution is clear from examination of the Statute. That statute with His Majesty's declaration at the time of accession, assuring his subjects that he intends to govern each Country according to the advice and wishes of the Parliament of that Country, leaves no doubt that India has gained complete independence under the Act and in-as-much—

(i) as His Majesty and the Indian Legislatures to-

(v) as the wrong practice of permitting the Secretary of State for India to represent British Voters in the British Parliament is abrogated, and

(vi) as there is no likelihood of India being controlled by Parliament Members for the benefit of British public any longer through the Secretary of State as his initiative is gone, and

(vii) as the power of the Parliament conclaves, which was the cause of injury to India, is thus completely destroyed,

therefore it is wrong to ignore these facts, and to tell the Country that it is under subjection and thus to deny the factum of its independence and thus maliciously and fraudulently to induce the country to believe that it is still in bondage and that independence is yet to be achieved through the instrumentality of the Congress, and that it is not an accomplished fact though actually it is.

5. That if the Congress says that it means to obtain Purna Swaraj in the sense of people's control over Government actions, that objective is accomplished even in that sense. Popular control over the actions of the State is almost complete under the constitution offered by His Majesty on the advice of British Parliament. This Act does not come in the way of India amending the constitution still further. It simply removes British obstacles and leaves the people of India in consultation with their Emperor, free to introduce such further changes in their law of Government as they please, with only one reserva-

advantage of the special powers conferred by the Act. The public is easily persuaded to believe in the evil-mindedness of the Governors because of their race, as for some time to come they are likely to be of British race, and because people have fresh in their minds the recent political history which is being wrongly interpreted by the Congress Agents to them. The Governors and the Executive Councillors have been but Agents of the Secretary of State, who in turn was responsible to non-Indian interests. It was under these circumstances that the Governors or Viceroy may have used their powers contrary to the wishes of the people's representatives. What happened, and what happens even now, cannot happen under the new Constitution. In a Government where the people's representatives are not represented in the executives, the Viceroy has to work with such executives as he has and so he has certified a bill or measure thrown out by legislature, but this cannot happen when the representatives of the legislature share the responsibility with the Governor-General, as they will be doing in the coming constitution. Moreover, if a Governor or a Governor-General does become so intolerable as to throw out good projects of the legislature out of sheer malevolence, there are so many remedies for the people that India is not likely to be injured by that extra power of his. The fact of the matter is that Congress Agents are systematically ignoring taking into account the natural and necessary results of the removal of the British Parliament's power over India's public servants in order to serve their selfish purposes.

tion that their Emperor should listen to the prayer of British Lords and Commons also, since he holds sway over them, before he gives his final consent. The Act gives Indian people complete control over their country's all-sided activities. If we refer to the legislative list, we find that Army, Navy and Air Force have been made legislative subjects. That means that the representatives of the peoples and States can make rules on these matters of importance. Even the making of treaties with other Countries is to depend on the will of the representatives of Indian Peoples and States. Thus if we refer to the legislative lists, we shall find that no material point is left outside the popular control and, therefore, if Congress claims that Swaraj is not attained, and that they are going to bring it about by means other than by working the Constitution, the Congress is merely mis-leading the Country in order to collect money and assume powers which it does not deserve.

6. That the Governor has been given powers of veto and of governing by proclamations is a fact. But this fact is made a subject of dishonest adverse criticism. Political consequences of this reservation of power by His Majesty for his accredited servant are wrongly represented. The public is frightened by the present Congress President, Pandit Jawaharalal Nehru, and other Congress agents pointing out to the item of reserved powers. This frightening of the public is nothing but mis-representation. It is almost impossible that the Governor will, out of sheer malevolence, stop any programme of public advancement and will take

advantage of the special powers conferred by the Act. The public is easily persuaded to believe in the evil-mindedness of the Governors because of their race, as for some time to come they are likely to be of British race, and because people have fresh in their minds the recent political history which is being wrongly interpreted by the Congress Agents to them. The Governors and the Executive Councillors have been but Agents of the Secretary of State, who in turn was responsible to non-Indian interests. It was under these circumstances that the Governors or Viceroy may have used their powers contrary to the wishes of the people's representatives. What happened, and what happens even now, cannot happen under the new Constitution. In a Government where the people's representatives are not represented in the executives, the Viceroy has to work with such executives as he has and so he has certified a bill or measure thrown out by legislature, but this cannot happen when the representatives of the legislature share the responsibility with the Governor-General, as they will be doing in the coming constitution. Moreover, if a Governor or a Governor-General does become so intolerable as to throw out good projects of the legislature out of sheer malevolence, there are so many remedies for the people that India is not likely to be injured by that extra power of his. The fact of the matter is that Congress Agents are systematically ignoring taking into account the natural and necessary results of the removal of the British Parliament's power over India's public servants in order to serve their selfish purposes.

7 The claim of the Congress that the body is capable of bringing independence to the Country is entirely ridiculous, taking into account their previous record They showed utter ignorance, not only of the methods of acquiring independence, but of the very conception of independence Government of a king's territory may or may not be democratic and yet it may be independent of any outside control To free the Empire of India from the control of interests outside the Indian Empire was, therefore, the chief function for the liberator This principle they did not realize Neither did the Congress realize that the ultimate cause of India's dependence is the authority which the British Parliament exercised over the Secretary of

the orders of his superiors, without questioning the superior himself, regarding the propriety or the legality of his actions.

8. That the Congress never objected to the power of the British Parliament over the Secretary of State for India or over the governance of India shows clearly that the Congress did not even intend to obtain independence or Swaraj. If it did not even object to the British Parliament's power over India's Governance even by mere oral expression because it did not understand the importance of it, it means utter incompetence. If Congress omitted to do it although it understood the importance, it is simply a case of gross neglect of the duty which the Body professed to undertake and collected money for. A commercial Company like insurance or banking doing business without the required knowledge, or a professional lawyer or a doctor professing to give a certain legal or medical aid but possessing no knowledge to diagnose the case, but continuing to take money year after year, will be restrained from practising their calling. So must be the case of the Indian National Congress. Congress cannot be privileged because it is an unregistered Corporation. Congress has clearly proved itself to be incompetent of understanding what constitutes independence and so its claim to give it to the Country is ridiculous and fraudulent.

9. That the Congress still chooses to profess that the Country has no Swaraj, that the Government of India Act is anything but Swaraj, and thus misrepresenting facts to the Country with the intention of

cheating the Country still further into contribution of funds for achieving Swaraj, notwithstanding that they have attained it already. But for such deceitful, mischievous and fraudulent propaganda as shown above, the people would never contribute funds they now do, on account of the deceit practised upon them.

who will retain power for ten years in the Legislative Council and the rest in that body for five years and all Members in the Legislative Assembly for five years. As a result of the mis-representation by the Congress, a Government entirely without plan and ideas of public benefit will be in possession of power and thus the public will be cheated of progress for too long a time.

11. That the misleading of the public is being deliberately done. The leaders of the Congress were informed by the Plaintiff that independence of India is achieved as power of the Parliament over the Government of India is removed, by newspaper articles and by notice of intended proceedings. Although it is possible that the majority of people who have lent their strength to the Congress by trusting to their leaders really believe that this Government of India Act is really of such a vicious character as the leaders make it out, the leaders cannot be said to be mere ignorant persons actuated by motives of patriotism. Congress leaders, who say that they cannot achieve under the constitution any economic constructive development which could really be asserted by a people, feel themselves powerful enough to bring about changes—a task very difficult to perform in all Independent Countries. This shows that the leaders themselves are conscious of the power and are intentionally misleading the Country.

12. That in these circumstances it becomes imperative to restrain the defendant from collecting funds as aforesaid, and to require him to account for funds illegally collected for the coming Congress Session, which is expected to be held in Maharashtra

cheating the Country still further into contribution of funds for achieving Swaraj, notwithstanding that they have attained it already. But for such deceitful, mischievous and fraudulent propaganda as shown above, the people would never contribute funds they now do, on account of the deceit practised upon them.

10. That the injury which the Plaintiff is to suffer as a Member of the public is of extremely grave nature. It makes the people believe that they are helpless and thus the public will be led into belief that there is no chance of any constructive work of social and economic betterment on account of the malevolent character of the constitution. The fact is that the Country has complete Swaraj and the people have every chance for constructive work of self-betterment. The Congress propaganda, therefore, is intended to ridicule the class which may mean to do some constructive work, by telling the public that the constructive work is impossible and, therefore, the public should not vote for any constructive propagandist but for them, who want to destroy the constitution. The Congress project to win election by mis-representating the constitution and if they may decide nut to take office afterwards the Country will be saddled with a Government which represents a minority. If they take up the office, the offices will go into the hands of people who will not work the constitution seriously. Thus the Country for a period of considerable length will be robbed of progress which would normally take place, if this mis-representation propaganda is not checked in proper time. After the Election there will be some Members

who will retain power for ten years in the Legislative Council and the rest in that body for five years and all Members in the Legislative Assembly for five years. As a result of the mis-representation by the Congress, a Government entirely without plan and ideas of public benefit will be in possession of power and thus the public will be cheated of progress for too long a time.

11. That the misleading of the public is being deliberately done. The leaders of the Congress were informed by the Plaintiff that independence of India is achieved as power of the Parliament over the Government of India is removed, by newspaper articles and by notice of intended proceedings. Although it is possible that the majority of people who have lent their strength to the Congress by trusting to their leaders really believe that this Government of India Act is really of such a vicious character as the leaders make it out, the leaders cannot be said to be mere ignorant persons actuated by motives of patriotism. Congress leaders, who say that they cannot achieve under the constitution any economic constructive development which could really be asserted by a people, feel themselves powerful enough to bring about changes—a task very difficult to perform in all Independent Countries. This shows that the leaders themselves are conscious of the power and are intentionally misleading the Country.

12. That in these circumstances it becomes imperative to restrain the defendant from collecting funds as aforesaid, and to require him to account for funds illegally collected for the coming Congress Session, which is expected to be held in Maharashtra

purpose of having a Congress Session in Maharashtra prior to election.

15. That the suit has been valued at Rs. 5 for the purpose of Court fee, jurisdiction and pleader's fees.

16. That the plaintiff is submitting a printed copy of the Notice. The plaintiff, therefore, prays that the injunction to restrain the defendant from activities for Congress and hand over all funds to the Court with the account be issued, and other just and proper orders be kindly passed in the matter.

Poona,
June 25th, 1936. } (Sd.) S. V. KETKAR.
Plaintiff.

I, Shridhar Venkatesh Ketkar, the plaintiff, above-named, do solemnly affirm that the contents of the above plaint are true as per my knowledge, information and belief. In witness I have signed below at Poona on June 25th, 1936.

(Sd.) S. V. KETKAR
Plaintiff.

B. *Suit No. 738 of 1936.*

Written statement on behalf of the Defendant.

(1) The plaint does not disclose any cause of action for the plaintiff.

(2) The plaint does not specify what particular civil right of the plaintiff is infringed.

(3) The Congress is a voluntary association and the plaintiff is not its Member, and even if he were, he could not sue the body unless its activities were in contravention of its constitution.

with the invitation of a Committee, over which the defendant presides and to make him surrender the funds to plaintiff for making necessary restitution to the parties defrauded or to appoint a Receiver in this behalf. On account of his persistent refusal to refrain from collecting funds for the Congress, notwithstanding protests, it has become now necessary to institute the present suit and proceedings, for restraining Congress activities, such as the collecting of funds for the above-said purpose and for the account of the funds collected and their surrender to the plaintiff or a Receiver.

13. That things such as misrepresentation of the constitution and collecting money on false pretences were extant prior to the Lucknow Congress, which was held in the last April and so cause of action for the injunction, accounts and surrender of funds was happening for a long time within the ordinary civil jurisdiction of this Court at Poona and other places in British India, so a notice to the Congress to discontinue itself by its own resolution was given through the defendant about 30th of March. The defendant not only omitted to do that, but invited the Congress to meet in Maharashtra, possibly to show his defiance to the Plaintiff.

14. That a fresh cause of action for this suit for injunction, accounts and surrender of funds arose at Poona, within the jurisdiction of the Court on or about the 22nd of May when the defendant had a Meeting of a Provincial Congress Committee to further the resolutions of the Lucknow Congress and inaugurated collecting of money for the purpose, including the

purpose of having a Congress Session in Maharashtra prior to election.

15. That the suit has been valued at Rs. 5 for the purpose of Court fee, jurisdiction and pleader's fees.

16. That the plaintiff is submitting a printed copy of the Notice. The plaintiff, therefore, prays that the injunction to restrain the defendant from activities for Congress and hand over all funds to the Court with the account be issued, and other just and proper orders be kindly passed in the matter.

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(2) The plaint does not specify what particular civil right of the plaintiff is infringed.

(3) The Congress is a voluntary association and the plaintiff is not its Member, and even if he were, he could not sue the body unless its activities were in contravention of its constitution.

(4) The suit as framed and conducted at present would not lie against the defendant in representative capacity.

(5) The plaint is so prolix and contains so much irrelevant fanciful and abusive matter that it is neither possible nor desirable to traverse each point one by one. The defendant, therefore, in general emphatically denies all the allegations. If the plaint is ordered to be amended properly, the defendant will give his replies fully.

(6) The plaintiff's claim that he has already won independence for India is too preposterous and chimerical for being taken seriously.

(7) The view that Government of India Act of 1935 is "designed to facilitate and perpetuate the domination and exploitation of the people of India" is shared by most of the political parties in the Country and the defendant who holds the same view is entitled to propagate it. The defendant also is perfectly within his rights to make arrangements to hold the next Session of the Congress in Maharashtra and to collect funds for it, and no injunction can be granted restraining his activities.

(8) The plaintiff has no right to ask for account nor for surrender of funds.

The last paragraph (not copied) asks the Court to reject the plaint for the above and other reasons.
28-9-1936

In the Court of the Joint Sub Judge At Poona.

Civil suit No. 738 of 1936

Summary of the plaintiff's main contentions:—

1. Defendant is an Executive member of the body called 'Congress'.

2. He is acting for furtherance of the Resolution No. 9 passed by the Lucknow Congress.

3. His action is detrimental to the general public and especially to the plaintiff—a subject of His Majesty the King Emperor—entitled to the advantages of the Government of India Act 1935, inasmuch as defendant's actions tend to deprive all subjects of the advantages and opportunities given by the said Government of India Act and of independence acquired thereby for economic betterment of the country at large. To achieve this independence plaintiff has made material contributions.

4. As the New Government of India Act confers substance of independence (it has removed control of British Parliament over Indian Affairs), the aim for which the body known as Congress has been claiming to work up to now is achieved, the substratum of the Congress edifice being thus completely gone.

5. Moreover Congress is an unregistered body. Its officers are falsely and fraudulently misrepresenting the new Government of India Act in order to facilitate their way of securing contributions with a view to attain their selfish purposes. Their irregularities are the necessary result of the unregistered character of

the Congress. The Congress officers are thus misguiding the general public and creating general distrust in public work.

6. Much is made of the reserved power allowed by the Act to frighten the general public. Such a frightening is being brought about by sheer misrepresentation.

7. That the Congress never objected to the power of the British Parliament over the Secretary of State for India or over the governance of India up to now clearly goes to prove its incompetence Congress has clearly proved itself incompetent even of understanding what constitutes independence and so its claim to give it to the country is ridiculous and fraudulent.

8. Congress propaganda is altogether mischievous inasmuch as it ridicules the class which may mean to do some constructive work under the New Act. As such the mischievous propaganda must be checked without any further delay.

9. As the misleading of the public is being deliberately done and funds are collected it becomes imperative to restrain the defendant from collecting them for mischievous purposes any longer.

10. The Court, therefore, be pleased to restrain the defendant from activities for Congress and hand over all the funds to the Court with accounts.

Poona
14th October, 1936. (*Sd.*) S. V. KETKAR